

**United States
Department of Labor
Seventy-First
Annual Report
Fiscal Year 1983**



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United States Department of Labor Seventy-First Annual Report Fiscal Year 1983



Raymond J. Donovan, Secretary of Labor

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UNITED STATES DEPARTMENT OF LABOR

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Report of the Secretary

In fiscal year 1983, the Department of Labor demonstrated that better management of its programs and resources resulted in improved protections and additional services for American workers.

The process of reevaluation and restructuring begun three years ago has enabled the Department to move expeditiously toward implementing major worker-protection initiatives this past year.

These included:

- Implementation of the Job Training Partnership Act, developed with the cooperation of Congress, which represents a new approach to the Department's employment and training programs.

- Improved safety and health protection for workers through cooperative efforts by employers, government and workers.

- Establishment of a base within government to assist employers and unions in developing cooperative programs to meet the challenges of a changing world economy.

At the same time, the Department instituted new measures to improve its own administration. The goal was greater operational effectiveness, with reduced costs. During the past year the Department recorded new gains in combatting fraud and mismanagement in departmental programs, as well as in employee pension and benefit plans.

Administration and Management

Increased administrative efficiency and cost-effectiveness were emphasized by the Office of the Assistant Secretary for Administration and Management (OASAM) in fiscal 1983.

In its role of providing financial management, travel administration, space and personnel utilization, and other support services, OASAM was guided by the goals of the President's management improvement initiative, Reform '88, as well as other Presidential and congressional mandates.

In order to control escalating personnel costs, OASAM used a comprehensive monitoring system, developed to ensure that position management and classification procedures within each agency follow prescribed rules and regulations. As a result, 16 new position classification standards were implemented, affecting more than 4,000 positions in the Department of Labor.

OASAM assumed responsibility this past year for managing the Frances Perkins Building, utilizing a combination of in-house expertise and contractor services to provide more efficient and cost-effective operation and maintenance of our national headquarters building. For example, an energy management program resulted in savings of \$480,000, and a space reduction plan saved over \$3.6 million. Also, the Department's personal property inventory was reduced by 900 items, and telecommunications management was improved.

Employment and Training

On October 1, 1983, the Employment and Training Administration (ETA) implemented the new Job Training Partnership Act (JTPA), signed into law in October 1982 by President Reagan. JTPA represents an historic new approach to the Department's employment and training policies.

ETA in cooperation with the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and the Trust Territory of the Pacific Islands, established 595 Private Industry Councils (PIC's) across the country. They will play an important role in developing local training programs to provide for the employment needs of private employers.

Other features of the new system include basic changes in the operation of the U. S. Employment Service and State Job Service agencies and establishment of a new job training program under title III for dislocated workers.

By eliminating income maintenance and subsidies for public service jobs, JTPA places the training emphasis where it belongs, in partnership with the private sector. At the same time the Act expands the roles of State and local agencies in employment and training programs, while retaining certain oversight responsibilities for the Federal government. For example, the Office of Performance Management was established within ETA to develop fair and equitable standards to ensure the success of JTPA.

Under JTPA, 70 cents of every training dollar will go for actual training activities compared with 18 cents under the former Comprehensive Employment and Training Act (CETA). Under JTPA, 1 million of the hard core unemployed will be trained each year. JTPA targets three groups most in need: economically disadvantaged youths, welfare recipients and dislocated workers.

During fiscal 1983, ETA continued to administer CETA while establishing the foundation for full implementation of JTPA. CETA

was officially phased out on October 1, 1983. To ensure effective program integrity under JTPA, ETA concentrated on improving its resource management and worked to eliminate fraud, waste, and abuse by strengthening its oversight activities, audit programs and field assistance.

Veterans' Employment and Training

Passage of the Emergency Veterans' Job Training Act of 1983 and implementation of the Job Training Partnership Act (JTPA) were important developments that will help unemployed veterans find employment.

The Emergency Veterans' Job Training Act of 1983 is an Administration effort and commitment to encourage employers to hire and train long-term unemployed Korean-conflict and Vietnam-era veterans. This landmark program is administered jointly by the Department and the Veterans Administration to provide employers reimbursement for up to \$10,000 of starting wages paid to eligible veterans.

In fiscal 1984, for the first time, governors and local officials in each State may apply for grants to conduct job training and placement programs for veterans in their communities. These programs, authorized under title IV of JTPA, offer a creative and effective approach to meeting the needs of service-connected disabled veterans, Vietnam-era veterans, and veterans recently separated from military service.

Worker Safety and Health

During fiscal 1983, the Department continued to emphasize cooperation, rather than confrontation, to improve worker safety and health.

Both the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) increased services and assistance to employers and employees, which resulted in significant statistical improvements of worker safety and health measures in workplaces covered by both agencies. Current BLS statistics indicate a continuing decline in the rate of on-the-job injuries and illnesses to their lowest levels ever.

OSHA established a program to assist employers in evaluating their potential safety and health problems. More than 20 agreements were signed during the fiscal year between OSHA and companies meeting the criteria of its new Voluntary Protection Programs,

established in July 1983. The agency also offered training to employers and employees to encourage preventive measures in establishing safe and healthful workplaces; the number completing courses at the OSHA Training Institute during the year was 6,792, compared with 4,389 during fiscal 1982.

These policies have helped reduce the rate of on-the-job injuries and illnesses by 11.5 percent since 1980. Statistics for employers covered by the Occupational Safety and Health Act are based on the Annual Survey of Occupational Injuries and Illnesses, which covers calendar, not fiscal years. In calendar 1982, the latest year for which statistics are available, job-related injuries and illnesses fell by 0.6 percent from 8.3 to 7.7 percent, the lowest incidence rates since the Bureau of Labor Statistics began gathering these figures. Statistics for the 1983 calendar year will be compiled by the Bureau of Labor Statistics during the 1984 calendar year, based on records kept by employers to meet legal requirements during 1983.

Mine Safety and Health Administration actions have also emphasized a cooperative approach by stressing education and training and engineering assistance by MSHA to both management and labor. This assistance was provided to 217 mines with accident rates higher than the national average during fiscal 1983.

Cooperative efforts by industry, labor and government allowed for dramatic improvement in both coal and noncoal mining injury rates. In 1980, the rate for all injuries was 10.03 per 200,000 hours of worker exposure in coal mining and 6.46 in noncoal mining; in the first 9 months of 1983, the rates were 6.98 and 4.37, respectively. That represents a reduction of more than 30 percent for coal mining and 32 percent for noncoal mining. Fatality rates for coal mining were the lowest since statistics have been kept and have never been lower for noncoal mining.

Labor-Management Relations

We continued to emphasize cooperation between labor and management in both the private and public sectors. The Labor-Management Services Administration (LSMA), in cooperation with the American Federation of Government Employees and the National Union of Compliance Officers, established a voluntary labor-management cooperation program designed to increase the effectiveness of agency programs by improving internal communication and utilizing "participation circles." These circles allow employees and management to better understand each other's problems and to develop appropriate solutions through cooperative ef-

forts. The circles were established in 12 field offices, as well as in the national office and have been operating effectively since fiscal 1982.

LMSA's Division of Cooperative Labor-Management Programs used a variety of strategies to enhance public awareness of the cooperative approach. Five symposiums on cooperative labor-management programs were held throughout fiscal 1983. The Southeast Regional Symposium was attended by 47 leaders from labor, business, government and the academic community.

LMSA published several reports on labor-management cooperation to guide employers and employees in developing useful approaches to problem solving. The *Resource Guide to Labor-Management Cooperation*, for example, includes listings of more than 200 in-plant cooperative programs. This 198-page directory identifies cooperative programs which are in operation throughout the Nation and provides other sources of information for employers, unions and others interested in developing their own employee participation programs as a means of coping with changing world economic conditions.

One of LMSA's priorities has been to increase its protection of the pension funds of union members through an aggressive program of audits and investigations. To combat the misuse of union funds, LMSA has developed a targeting system to identify those cases most likely to involve major civil and criminal violations. As a result, more than 1,395 audits and embezzlement investigations were conducted during this fiscal year, compared with 1,275 audits and investigations during fiscal 1982.

Legal Actions

This year brought a victory in the Department's ongoing effort to protect the approximately \$5 billion in assets of the Teamsters' Central States Pension Fund from fraud or other illegal misuse. An agreement was reached, settling outstanding claims against the current trustees of the pension fund and the Central States Health and Welfare Fund. The settlement was the largest ever obtained under the Employee Retirement Income Security Act (ERISA) and provided the means for the Department to recover the \$6.5 million wrongfully taken from fund participants and beneficiaries. This settlement was the culmination of 2 years' negotiations; through the Department of Labor's hard work and determination, the rights and benefits of a half million participants and beneficiaries of both funds were made more secure than ever before. The settlement reflected the Department's commitment to safeguard the pensions and other benefits of American workers.

Employment Standards

The legislative and administrative reforms of the Employment Standards Administration (ESA) in fiscal 1983 resulted in greater protection of workers and a reduced paperwork burden on employers.

The Wage and Hour Division implemented the Reagan Administration's Migrant and Seasonal Agricultural Worker Protection Act, which eliminates many of the burdensome features of the former law and has improved protections for farmworkers by ensuring that workers are protected whether they are employed by crew leaders or agricultural employers or associations. Although agricultural employers are no longer required to register like crew leaders or farm labor contractors, they must now comply with all provisions of the Act protecting workers, including safety and health standards for housing and vehicles, advance disclosure of wages, hours and working conditions and itemized earnings statements for each pay period.

Another departmental success was the improvement of the black lung benefits program. Although bankruptcy had threatened the program since the 1977 amendments, the implementation of changes to the Black Lung Benefits Act in fiscal 1983 now ensure sound financing and financial management for the future. The Administration's new Act provides stricter eligibility requirements, an increase in the excise tax on coal and shifting of liability for payments in certain cases from mine operators to the Black Lung Disability Trust Fund. Such cases include those approved under the liberalized criteria of the 1977 amendments which involve unanticipated liability either by the operator or the operator's insurance carrier.

Labor Statistics

The Bureau of Labor Statistics has continued to improve the quality and usefulness of its basic economic statistics. Significant changes were made in price and productivity measures. The home ownership component of the Consumer Price Index, one of the Nation's most widely watched economic indicators, was changed to reflect more accurately the cost of shelter. A new series of multifactor productivity measures was introduced, and the Producer Price Index program was modernized and expanded. The Armed Forces were added to the labor force data this past fiscal year to achieve a more accurate measure of employment, although BLS continues to publish civilian employment data.

Women's Bureau Activities

The Women's Bureau vigorously promoted increased employment opportunities for women in fiscal 1983; by working with other government agencies, the private sector, community and educational organizations, the Bureau sought to remove barriers to employment for women and to address women's training and support systems needs.

Several demonstration projects were developed during the year to provide models which community agencies could use or adapt to meet their individual needs. For example, in the rural Mississippi Delta, a project provided training and job placement assistance to 50 mature, low-income women. As a result of this 9-month program, 20 women were placed in part-time summer jobs and 16 in regular jobs. At least a dozen earned high school equivalency certificates as a result of the program, and a total of 38 returned to college for additional training in order to qualify for better jobs.

The Bureau was also active in promoting child care. By informing employers of the benefits providing child care facilities or services, the Bureau created heightened awareness of the need for this service. The Bureau also developed pilot projects which demonstrated the variety of options available to meet this crucial need.

Recognizing the need for increased women's participation in the work force, the Bureau issued a number of publications concerning women's occupations, earnings and education. The Bureau has distributed its full supply of 33,000 copies of the updated publication *A Working Woman's Guide to Her Job Rights*.

The Bureau also initiated studies of issues important to women, including the problems of women veterans seeking work in the civilian job market, the impact of technological change on women's employment opportunities, the impact of job dislocation on women, and employment concerns of immigrant women.

International Labor Affairs

The Bureau of International Labor Affairs (ILAB) made major contributions through its influence on actions of the 1983 International Labor Organization (ILO) Conference in Geneva. These contributions helped produce the most positive results of any ILO conference in the last 25 years. By successful lobbying for a secret ballot, the United States defeated the Soviet Union's attempt to block adoption of a key committee report. This report criticized the Soviet bloc for denying fundamental trade union rights to its

workers and was the first open chastisement of Soviet propaganda in any United Nations-related organization.

Other significant achievements by ILAB included: the increased participation by the Department in U.S. trade policy decisions, the creation of a trade union rights condition for designation under the Administration's Caribbean Basin Initiative, publication of a new directory of foreign labor organizations, and continued support for Poland's Solidarity in the ILO.

Inspector General's Activities

In fiscal 1983 the Office of Inspector General (OIG) greatly expanded its capability to combat fraud, waste, and abuse in Federal programs. The number of auditors in OIG was increased from 164 to 287 and the number of investigators was increased from 157 to 173. Due to the increased personnel, OIG was able to audit the internal accounting and administrative control systems of the 50 States and seven jurisdictions to ensure effective handling of the Job Training Partnership Act (JTPA) funds. In addition, a special-purpose review of selected prime sponsors under the Comprehensive Employment and Training Act (CETA) established proper distribution of assets and liabilities, and audits of State agency benefit payment control systems for unemployment insurance helped reduce fraud and abuse in these programs.

Organized crime influence in labor-management activities was a key target of the IG's Office of Organized Crime and Racketeering, and there were significant increases in indictments and convictions in this area as well as from investigations of fraud and mismanagement in Department-sponsored programs. In addition, cooperative efforts with the Employment Standards Administration resolved problems in management of the Federal Employees' Compensation Act program.

Conclusion

The U. S. Department of Labor serves all American workers. Its many activities touch the lives of virtually every man, woman and child in our country.

The Department's many responsibilities include protecting the health and safety, employment and pension rights of working people; requiring payment of a minimum wage and overtime rates after 40 hours a week; prohibiting discrimination in the workplace for any reason except the ability to do the job; providing job training,

unemployment insurance and workers' compensation; promoting collective bargaining, and collecting, analyzing and publishing labor statistics.

The information contained in this annual report establishes that the Department of Labor has continued to build on the record of accomplishments achieved during the past 2 years of the Reagan Administration. The Department of Labor has successfully met the challenge of providing more efficient, cost-effective programs to the American public and will continue to progress in all areas of its mission. At the same time, the Department and the public benefitted greatly from the support of a dedicated, experienced and professional staff, which has demonstrated its vision and its administrative talents in developing and implementing vital worker protection initiatives and management controls.

A handwritten signature in dark ink, reading "Raymond J. Donovan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Raymond J. Donovan

Employment and Training Administration

The major focus of the Employment and Training Administration (ETA) in fiscal year 1983 was the implementation of a new training system under the Job Training Partnership Act (JTPA). JTPA was enacted into law on October 1, 1982 and scheduled to become effective October 1, 1983.

JTPA represents a landmark in employment and training legislation in that it makes fundamental changes in the approach to assisting the unemployed. Some of the major departures include:

- A focus on training as the primary purpose of the program and strict limitations on expenditures for activities not directly related to training.
- A lead role for the private sector in the planning, operation, and administration of local training programs through Private Industry Councils.
- Expansion of the State role in training and employment programs to include management and oversight functions formerly carried out by the Federal Government.
- Establishment of a new training program for dislocated workers.
- Basic changes in the operation of the U.S. Employment Service (ES) and the affiliated State Employment Service Agencies.

Because the new act represented a sharp departure from its predecessors, the implementation required extensive organizational and procedural changes in the structure and administration of employment and training programs. Prior to the signing into law of JTPA, a Transition Task Force was established in ETA to oversee the implementation of the new system. As a result of this early preparation, an implementation plan was published the same month that JTPA became law. A month later, in November 1982, an advisory committee on the implementation was established, and all Governors designated staff to act as liaison in carrying out the implementation.

Section 181 of the new act imposed a very tight schedule for the development and issuance of regulations and other guidance under the new system. Rules regarding the State Job Training Coordinating Councils (SJTCC's), Service Delivery Areas (SDA's) and Private Industry Councils (PIC's) were published in preliminary form in November and in final form in December 1982. Final regulations for the operation of titles I, II, and III were published in March 1983.

One of the most significant aspects of the new structure established by JTPA was the emphasis on performance rather than process. The act specified two major goals for adult participants: increased employment and earnings and reduced welfare dependency. Specified for youth are additional goals of employment competencies and educational achievement.

JTPA established the development and promulgation of performance standards as a major part of the Federal responsibility. It assigned the Secretary the responsibility for developing measurable performance standards although Governors may adjust the standards within parameters established by the Secretary. Performance standards were required not only for the block grant program administered at the State and local level, but also for the dislocated worker program authorized by title III and for certain national programs.

The act specified certain factors to be considered in developing standards and set specific dates for the issuance of standards for the basic program. Two sets of standards were required: interim standards for the initial 9-month period (October 1, 1983 to June 30, 1984) and longer term standards for the first full program year which begins on July 1, 1984. The interim standards were to be published within 6 months of enactment; standards for the first program year were to be published by January 31, 1984.

Reflecting the legislation's strong emphasis on performance, a major part of ETA's efforts in fiscal 1983 focused on development and implementation of the performance standards. An Office of Performance Management, established in ETA, undertook the extensive analysis and research necessary to develop fair and equitable standards and to develop and disseminate technical assistance on their use.

The required interim performance standards were published on April 12, 1983, within the deadline established by the Congress. The performance standards included the following measures for adults: entered employment rate; cost for entered employment; average wage at placement; and welfare entered employment rate. Measures for youth included: entered employment rate; positive termination rate; and cost for positive termination.

In addition to issuing the interim standards, ETA developed and issued an optional methodology for the use of the Governors in adjusting the national standards to local conditions.

While the Congress scheduled fiscal 1983 as the transition year with the provisions of CETA to remain in effect, concern with the problem of dislocated workers prompted the Congress to enact funds for title III of JTPA in early 1983. As a result, title III became

operational during fiscal 1983 with some \$110 million provided to States to begin programs for dislocated workers.

In addition to implementing JTPA, ETA also continued to administer CETA and to make the necessary arrangements to assure proper closeout of the program. Finally, ETA maintained a concerted effort to improve the management of the resources it administers and to reduce fraud and abuse by strengthening its financial and procurement oversight activities. Audit and debt collection were substantially strengthened by additional staff and new procedures to assure close and timely oversight of grants and contracts.

Comprehensive Employment Programs

Although fiscal 1983 was designated as the transition year to JTPA, major activity continued under the Comprehensive Employment and Training Act (CETA). During the year, comprehensive training programs were operated by 475 State and local prime sponsors that received funds for employment and training services under CETA.

After the first three quarters of the fiscal year, prime sponsors reported over 800,000 individuals served under the consolidated title II BC grants at a cost of an estimated \$1.4 billion. This estimate included 20 percent administrative costs. Of a total of 443,200 participants terminated from the program, 224,100 were placed in jobs. Of the total placements, 86.8 percent, or 194,500 people, were placed in jobs in the private sector. In addition, 35,400 returned to school or entered further training. The average cost for placing a participant in a job during this period was approximately \$6,070 and the average hourly wage upon entering unsubsidized employment was \$4.34.

Most participants were enrolled in one of three major types of training activities: classroom training, on-the-job training, and work experience. Many individuals received assistance such as job development, counseling, or supportive services without being enrolled in one of the three training activities. In the first three quarters of the year, more than half of all participants served were enrolled in classroom training. Approximately 25 percent participated in work experience and 16 percent were enrolled in on-the-job training programs.

At the end of the third quarter of fiscal 1983, 98 percent of the participants were economically disadvantaged and 50 percent were receiving some type of public assistance at the time of enrollment.

Youth Programs

Over 800,000 youth participated in the Summer Youth Employment Program (SYEP) in fiscal 1983. The summer program provided economically disadvantaged youth with employment opportunities and related training and education during the summer months. In fiscal 1983, CETA prime sponsors were provided \$824.6 million to conduct summer programs in their areas.

The Job Corps, which provided a wide range of training, education, and support services, primarily in residential centers, for disadvantaged youth aged 16 to 21, served approximately 57,000 new enrollees and provided 40,300 service years in fiscal 1983. It operated 106 training centers at a cost of \$618 million.

During fiscal year, ETA continued its initiative to reduce sole source contracting and to refine Job Corps operations cost estimates. While completing its program of shifting from sole source to competitive contracts for the operation of Job Corps centers, ETA also opened to competition much of the outreach screening and placement contracting for the first time. In addition, ETA extensively revised its procurement procedures for the Job Corps program, including issuing new standard Request for Proposals for Job Corps center operations contracts and outreach screening and placement contracts. The new model Request for Proposal (RFP) provides clear direction to potential contractors and allows any interested firm an opportunity to bid on the operation of Job Corps Centers.

In another major effort, ETA conducted a complete review of all Job Corps vocational offerings to determine the vocations most suitable for Corps member training in relation to current and future labor market needs. Documentation of the training needs included invaluable advice by persons outside Job Corps who served in an advisory capacity. The work done in fiscal 1983 provided a basis for future decisions on training offered at the individual centers and guidance for assessing the direction of overall Job Corps training. In other initiatives, ETA completed work on new performance standards for Job Corps center operations and initiated an improved financial management system. Revisions in financial reporting procedures were expected to reduce the burden on contractors and make the reports more useful for management purposes.

Under JTPA, the Job Corps remained a Federal responsibility and continued to operate as it did under CETA.

Special Targeted Programs

In fiscal 1983, the Department continued training and other employment-related services to disadvantaged groups in the labor market. Special programs served older workers, Indians and other Native Americans, and migrant and seasonal farmworkers.

In fiscal 1983 the Senior Community Service Employment Program, which gives grants to national organizations and State governments to develop part-time jobs in community work for poor persons aged 55 and older, provided employment for over 62,500 older persons through an appropriation of \$319.4 million.

The Native American Employment and Training Program supported a wide variety of training and employment services through grants to Indian tribes, other Native American communities, and various organizations. These programs served about 32,700 persons in fiscal 1983 at a cost of \$69 million. Almost 9,800 persons received classroom training; 2,600 were placed in on-the-job training; 8,500 were in work experience positions; 4,900 held public service employment jobs; and 6,900 received support services.

The Migrant and Seasonal Farmworker Program, whose services ranged from job training to emergency relief for migrants and other seasonally employed farmworkers, served an estimated 44,800 persons at a cost of \$70 million in fiscal 1983. Approximately 10,700 of these individuals received classroom training; 2,400 were placed into on-the-job training, and 2,500 were provided work experience. Many also received supportive services such as nutritional assistance, health and medical care, and emergency assistance.

Special National Level Programs

Fiscal 1983 represented a transition year for Special National Level Programs, reflecting the emphasis of JTPA on State and local responsibility for providing training and the more limited role for national programs. Most national job training and outreach programs operated at reduced levels in fiscal 1983 and were encouraged to seek State and local support in subsequent years under JTPA.

Various national organizations conducted on-the-job training and outreach programs that served over 5,700 individuals and placed almost 4,000 in private sector jobs during the fiscal year. The majority of these individuals were economically disadvantaged and many were dislocated workers.

A major focus of the National Level Programs in fiscal 1983 was on training and placement services for handicapped persons through support for organizations that serve the handicapped. Among the organizations conducting such programs were The Association for Retarded Citizens, Goodwill Industries, Epilepsy Foundation, the Federation of the Blind, the National Association of Rehabilitation Facilities, the Electronic Industries Foundation, and Mainstream. It is estimated that these organizations served over 5,000 handicapped persons and placed almost 3,000 in unsubsidized employment during the year.

Another major activity of the Special National Level Programs was the Partnership Program, an effort of national organizations representing the business community, the labor movement, and various community-based organizations to foster cooperation and participation in training and employment programs by local affiliates. These organizations played an important role in the JTPA transition activities during 1983 by providing training, informational materials, and technical assistance on the new act to a wide range of organizations as well as to their individual constituencies.

A special demonstration program was begun in fiscal 1983 as a joint public/private venture in job training with the potential for nationwide application. Under the auspices of the Greater Cincinnati Industrial Training Corporation, public agencies and corporations, led by General Electric, joined to develop and conduct a training and certification program in the industrial machining and fabrication field. Among its major features, the program will develop state-of-the-art training materials which will eventually be available nationwide, and will develop and promote a standardized certification process for individuals who complete training to assist them in obtaining employment in the industrial machining and fabrication industry.

Apprenticeship

During fiscal 1983, ETA continued to provide current and potential sponsors of apprenticeship programs with technical assistance and advisory services. These services were provided by direct contact with private sector employers, employer associations, and labor organizations at the local, State, and national levels. New and revised apprenticeship standards describing work processes in various skilled occupations and descriptions of effective training methods for use by program sponsors were published. Two new occupations, welding technician and television director, were recognized as apprenticeable occupations, bringing the total number to 734.

About 50,000 new apprentices entered training during the fiscal year. Over 250,000 apprentices were in training at the end of the year, including about 17,000 females (7 percent) and 51,000 members of minority groups (20 percent).

ETA assisted the Department of Defense in establishing apprenticeship programs for uniformed personnel designed to make military careers more attractive, improve the proficiency of personnel, and provide personnel with career training that could be continued after they left military service. Over 40,000 uniformed personnel were enrolled in apprenticeship programs run by the Army, Navy, and Marine Corps as of the end of the year, an increase of 11,000 over fiscal 1982. The Army alone had almost 36,000 uniformed apprentices. The Defense Department also sponsors apprenticeship programs for its civilian employees.

The 48,000 apprenticeship programs registered with either ETA or one of the 32 State apprenticeship agencies at the end of the year showed a decline of 3,000 from the previous year-end total. During the year almost 2,400 new programs were developed and installed by Federal staff and about 2,000 programs were reviewed for compliance with Federal equal opportunity requirements.

In response to reduced State and Federal funding of apprenticeship activities, ETA redeployed apprenticeship staff and shifted priorities to assure adequate levels of service in States which had eliminated or greatly reduced their own apprenticeship programs because of fiscal constraints. State and regional apprenticeship conferences continued to be sponsored as a means of bringing State, Federal, and private sector training professionals together to discuss common concerns.

Efforts initiated last year to improve the quality of apprenticeship training continued. A task group was convened to review and revise the program quality rating system. Just under 2,200 quality assessments were performed during the year. Based upon the results of these and previous quality assessments, apprenticeship field staff assisted sponsors to implement such quality improvements as the use of performance-based training, revised work processes, and updated related theoretical instruction.

Employment Service

During the first three quarters of fiscal 1983, almost 12 million persons submitted job applications at the Job Service offices, and 4,343,000 job openings were listed by employers. Of the jobs listed, 3,286,000 (or 76 percent) were filled. The 1983 applica-

tions represented an increase of 1,022,000 over a comparable period in fiscal 1982.

In 1983, a major effort was initiated to establish an effective National Job Bank System (NJBS). Starting with the basic "interstate clearance" system in existence since 1979, staff aimed to develop a national consensus on criteria for jobs appropriate for interstate advertising, improve the speed and efficiency of information transmittal, and increase user awareness.

The newly established NJBS provided a computerized mechanism through which hard-to-fill job orders were distributed to all Job Service local offices nationwide; responsibility for referring and placing applicants was retained by the local Job Service.

Specific improvements included: the institution of computer tape-to-tape exchange between the State Employment Security Agencies (SESA's) and the Interstate Job Bank; establishment of criteria for selection and submittal of job orders for interstate listing; and a reduction in the turnaround time for distribution of weekly listings of the hard-to-fill orders. To date, these changes achieved an increase from 650 job orders listed at any given time to 3,000. Other planned improvements included replacement of tape-to-tape exchange of job order data with telecommunication and networking techniques between SESA computers.

In the area of counseling and testing, significant accomplishments included the following:

- Development of two new forms of the General Aptitude Test Battery.
- Further development of a new technique for determining an applicant's aptitude for any occupation.
- Construction of self-assessment techniques for applicants' use in assessing their skills.
- Adaptation of aptitude tests for application to handicapped applicants.

Staff of Job Service offices continued to have special responsibilities for administering the Targeted Jobs Tax Credit (TJTC) and Trade Adjustment Assistance program. Job Service offices issued a total of 263,800 certifications under the Targeted Jobs Tax Credit program during the first three quarters of fiscal 1983, including 13,800 certifications for the new target group of disadvantaged summer youth.

The 1981 amendments to the Trade Act of 1974 increased emphasis on the provision of training, job search, and relocation assistance. During the year, 96,187 workers covered by 422 petitions were certified as eligible to apply for trade adjustment assistance. Of these, 8,700 entered federally financed training, 622 received job search allowances, and 2,509 relocated to other areas.

Another 3,908 individuals were placed directly into jobs.

During fiscal 1983, Job Service Employer Committees (JSEC) provided private sector leadership in assisting State Employment Security Agencies implement the new Wagner-Peyser amendments under JTPA. Through these committees more than 20,000 employers gave in excess of 150,000 volunteer hours each month during fiscal 1983 to help the Job Service improve its delivery and service capability to applicants and employers.

Work Incentive Program

During the first three quarters of fiscal 1983, the Work Incentive (WIN) program, which provides training and employment services to recipients of Aid to Families with Dependent Children (AFDC) and is administered jointly by DOL and the Department of Health and Human Services, registered nearly 465,000 individuals in 36 States. Most participants were from groups traditionally at a disadvantage in the labor market. Seventy percent of the registrants were women; a little more than half were minorities, and only 48 percent had graduated from high school.

More than 88,000 registrants entered unsubsidized employment in this 9-month period. Sixty-three percent of WIN job entrants were women who, like their counterparts in the mainstream labor force, tended to cluster in clerical and service work. Men were more likely to find blue-collar work. A little more than one-fourth of the men took jobs as structural workers or in freight handling and transportation.

More than half of the job entrants earned enough at job entry to leave the AFDC rolls after they started work; the others continued to receive some assistance, but at a reduced level.

WIN job entrants earned an average starting wage of \$4.52 per hour, but wages varied considerably among the different groups. Men averaged \$5.21 an hour at job entry; women averaged \$4.12. The highest rate was paid to unemployed parents whose average starting rate was \$5.25 an hour. Most of the unemployed parents were male heads of families. About one-fourth of the male workers received an entry wage of \$6.00 or more an hour, a wage paid to only 1 in 10 women.

Service to Veterans

In the first 9 months of fiscal 1983 local Job Service offices, which give priority to veterans in counseling, aptitude testing, job development, referral and placement activities, received 1,646,200 new

and renewed applications from veterans and placed about 321,700 veterans in jobs.

Established by legislation as a permanent program and staffed by approximately 2,000 disabled veterans, the Disabled Veterans Outreach Program (DVOP) helps disabled and Vietnam-era veterans obtain employment and training assistance. DVOP staff assigned to local Job Service offices contributed to the job placement of 17,963 disabled veterans through June of fiscal 1983.

Unemployment Insurance

In fiscal 1983 the Administration initiated and Congress approved two extensions of the Federal Supplemental Compensation (FSC) program that initially had been enacted in the closing days of fiscal 1982. In addition to extending the period of eligibility, the number of weeks of payment was increased in the Surface Transportation Act of 1982 (January 1983) and again in the Social Security Amendments of 1983 (April 1983). On October 24, 1983, President Reagan signed a further extension of FSC. The Social Security Amendments also included significant steps aimed at strengthening the solvency of State unemployment funds.

During the first 10 months of fiscal 1983, 23 million initial claims were filed in SESA's. One hundred seventy-six million weeks of unemployment were claimed and \$18.7 billion was paid out in benefits to about 9 million recipients.

Improving internal security in SESA's continued as a major emphasis in the drive to curb employees' fraud and abuse. Based on analyses of Federal and State reviews of internal security and control in unemployment insurance (UI) operations, recommendations for improvement in operations as well as procedural revisions were developed for SESA use. Most SESA's strengthened their internal security staff and conducted risk analyses in accordance with procedures and training furnished by the Employment and Training Administration.

In an effort to curb fraud and abuse, a Federal-State Benefit Payment Oversight Committee was formed, with responsibility to review and recommend (as appropriate) a wide range of initiatives to improve the ability of the SESA's to detect, collect, prosecute, and deter UI fraud and overpayments. To control improper payments, the random audit program was expanded and is operational in 35 SESA's. This audit program was designed to produce valid rates of detectable overpayments or improper payments on a statewide basis and will serve as a management tool to identify problems and foster corrective action. The audit will be expanded to the remaining 18 SESA's in fiscal 1984.

In spite of improvements in the financing structures of many State laws, continuing high levels of unemployment caused heavy drains on State UI funds as a whole. As a result, at the end of fiscal 1983, 24 States had outstanding loans totaling \$12.9 billion, compared to 20 States with aggregate loans of \$8.6 billion at the end of fiscal 1982. During the fiscal year, the States of Alabama, Colorado, Louisiana, Montana, Texas, Utah, and Virginia borrowed from the Federal Unemployment Account for the first time. Alabama, Utah, and Virginia repaid these loans before the end of the fiscal year.

Under the Redwood Employee Protection Program, \$85.3 million was paid to affected workers in weekly layoff benefits and severance payments since the beginning of the program. Preliminary data indicate that in fiscal 1983 affected workers were paid benefits for 39,263 weeks for a total of \$9.7 million. Severance payments totalling \$6.5 million were made to 284 workers. Only three relocation and job search claims were paid for a total of \$5,983.

Under the Disaster Unemployment Assistance (DUA) program during fiscal 1983, there were 19 major disasters declared in 12 States. Some 8,046 individuals received DUA during the first 10 months of the period. DUA benefits totalled \$3.1 million for this period, up from \$733,471 paid in all of fiscal 1982.

Trade Adjustment Assistance

ETA investigated worker petitions to determine the eligibility of trade-impacted workers to receive additional weeks of unemployment benefits, training, counseling, job search and relocation payments. Trade adjustment assistance was authorized by the Trade Act of 1974 as amended by the Omnibus Budget Reconciliation Act of 1981 and the Miscellaneous Revenue Act of 1982.

Fiscal 1983's efforts were directed at reducing the backlog of cases in order to approximate the 60 days required for a decision under the statute. At the end of fiscal 1983 the backlog stood at 460 cases—a reduction of 27 percent as compared to the previous year. The number of new petitions during the year totaled 1,215, compared to 809 in fiscal 1982.

The number of workers filing for benefits in fiscal 1983 was over 212,000, nearly twice the number filing for the previous year. Over 100,000 were certified for benefits, the majority in the steel, automobile, and apparel industries.

Effective October 1, 1981, the Trade Adjustment Assistance (TAA) program was amended to require workers to exhaust their

unemployment insurance benefits before receiving trade readjustment allowances (TRA) and reduced the TRA benefits to the same level as the weekly benefit amount payable under the State unemployment insurance programs. Preliminary TAA data for fiscal 1983 shows that 24,547 workers affected by imports received TRA first payment. A total of \$30.2 million was paid in TRA benefits during this period.

Planning and Policy Analysis

Much of ETA's efforts in planning and policy analysis in fiscal 1983 were focused on the enactment and subsequent implementation of JTPA. The signing of the new legislation early in the fiscal year was the culmination of many months of extensive staff work, analyzing issues that arose in developing the new program and in discussions with the Congress.

With the passage of JTPA, ETA planning efforts shifted to developing guidance for the implementation of the new system. Staff prepared conceptual papers that helped to define and clarify the limits and roles of the several levels of government involved in the new block grant approach to training and employment. These planning papers provided guidance in the design of the new system and in the development of regulations to implement the new law.

In addition, ETA staff provided support for a number of other significant legislative activities during the year. These included the several extensions of the Federal Supplemental Compensation program that were enacted, work on proposals for reforming the immigration system, and analyses for special youth minimum wage proposals.

Other significant policy and planning activities during the fiscal year included:

- Implementation of a system of High Priority Objectives and Subobjectives to guide the overall ETA planning system.
- Completion and submission to Congress of the 1982 Employment and Training Report of the President, including a report on the findings of ETA's program of research, demonstration, and evaluation projects.
- Completion of a number of analyses on such issues as methods to alleviate adverse trade impacts, and the role of employment and training programs in addressing urban problems.
- In accordance with the Regulatory Reform and Paperwork Reduction Act, ETA continued a program of reducing, and simplifying the regulations covering the programs under its administration. As the result of the enactment of JTPA, regula-

tions governing employment and training programs were drastically reduced and simplified.

- ETA continued to provide staff support for DOL's responsibilities under the Emergency Preparedness program. A significant accomplishment in this area was the preparation of the Human Resources Section of the National Plan for Emergency Preparedness.
- ETA prepared a wide range of position papers, analyses, and briefing documents to support DOL's participation in the employment and training activities of the Organization for Economic Cooperation and Development, the International Labor Organization, and other international organizations.

Research

Research efforts in fiscal 1983 focused much more sharply on employment and training program operations in anticipation of changes brought about with passage of the Job Training Partnership Act (JTPA). A major process evaluation of the transition and first full JTPA program year was initiated. Reflecting another major theme of JTPA, a series of projects was begun to explore establishment of performance standards—including reduction of welfare dependency—for job training programs to be administered by the States. In addition, funding was provided for development of performance standard guidelines for Employment Services (ES) activities.

JTPA's title III program for dislocated workers was foreshadowed by a series of dislocated worker demonstration projects that were expected to help shape programs begun by the States. One, the Downriver Community Conference demonstrations provided job search and retraining services to some 2,000 dislocated workers in Michigan. Preliminary results indicate that participating workers experience less unemployment and locate jobs with higher pay than similar dislocated workers who do not receive the services. Funding also was provided for a six-site dislocated worker demonstration program and for a process and impact evaluation of this program.

Two major projects were implemented to improve the cost effectiveness of ES and Unemployment Insurance Services (UI) operations. The first, a combined ES/UI effort had the objective of finding ways to reduce the drain on State UI trust funds by improving ES placements and administration of the work test for UI claimants. Preliminary results indicate that substantial savings can be made by improving the coordination of services between the

two programs. The second project is designing and implementing improvements to the Interstate Clearance System. This has resulted in a nationwide computer-assisted system for listing hard-to-fill jobs.

Anticipating Congressional interest, a study was expanded to generate data on characteristics of recipients of Federal Supplemental Compensation benefits. In response to a Congressional request, ETA initiated a study of unemployment, poverty, and job training needs of American Samoans who have moved to Hawaii and the U.S. mainland.

Labor force and economic issues that were studied during the year included continuation of the National Longitudinal Surveys (NLS) of groups of workers at critical transition stages of working life—labor force entry, reentry, and preretirement and retirement. A number of reports were produced on topics such as trends in employment of young women, welfare dependency among young women, formal training in the adult years, determinants and wage effects of occupational segregation, and determinants of retirement of older men.

A project was initiated on operational and managerial strategies for maintaining the *Dictionary of Occupational Titles*; and a major study was begun to synthesize the results of lessons learned from the operation of youth employment demonstration projects over a period of years beginning with the 1978 amendments to the Comprehensive Employment and Training Act.

Evaluation

Major evaluation findings during the year principally concerned projects addressing postprogram effects of CETA activities.

Periodic reports from the Continuous Longitudinal Manpower Survey (CLMS) provided detailed data on enrollees in CETA programs, the in-program training and/or employment they receive, and both their pre- and postprogram employment and earnings. Three reports on the initial 2 years of postprogram experience of participants who entered CETA programs in fiscal 1976 found that these persons steadily improved their employment and earnings in the first 2 years after leaving the programs. The pattern of continuing improvement in the second postprogram year held true for participants in each type of program, but participants in the training programs tended to have larger percentage gains than those in the subsidized employment programs. Participants who stayed in the programs longer had higher postprogram earnings and larger pre-post gains. Another CLMS report indicated similar 2-year,

postprogram results for persons who entered CETA between July 1976 and September 1977.

An evaluation of the economic impact of the Job Corps was completed after 4 years of postprogram followup on individuals enrolled in the program in 1977. The experiences of the Job Corps participants were compared to a similar group of disadvantaged youth not in the program. This assessment confirmed earlier reports based on shorter term data that (a) Job Corps had a positive and sizable impact on its participants, and (b) the program's economic benefits for society were greater than its costs.

The basic finding of a national evaluation of the Employment Service's (ES) impact on jobseekers was that applicants who received ES job referral assistance found jobs more quickly and earned more in 6 months after applying to the ES than did comparable applicants who did not get a referral. However, these overall positive results reflected substantial gains for women with little or no impact for men.

A report on the Youth Incentive Entitlement Pilot Project (YIEPP) examined the feasibility of enrolling large numbers of economically disadvantaged youth in a guaranteed jobs program. YIEPP involved over 76,000 youth and was conducted at 17 sites from early 1978 to mid-1980.

During fiscal 1983, work began on the design, data collection, and data base management of the Job Training Longitudinal Survey, the primary instrument to be used for evaluating the impact of the new Job Training Partnership Act (JTPA). Focus of this major evaluation will be on JTPA titles IIA and III, and the impact these programs have on participants, particularly in terms of increases in their employment and earnings and reductions in costs of income support for them. Other evaluation efforts funded during the fiscal year concerned the Job Corps, Indian, Migrant, and Unemployment Insurance worksharing programs.

Financial Management

In fiscal 1983, ETA initiated the implementation of the electronic transfer of funds through the "Letter of Credit-Treasury Financial Communications System (LOC-TFCS)." This required the development of an implementation plan and its approval by the Department of Treasury; the training of Federal, State, and local staff in its use; and the development of training materials. The system was successfully implemented and tested by States in the Dallas region during the fourth quarter of fiscal 1983. All necessary actions were taken to put the State Job Training Partnership Act

agencies on LOC-TFCS by the beginning of fiscal 1984.

In addition, ETA developed a cash flow management system to monitor more closely the letter of credit drawdown process in ETA regional offices. An automated cash drawdown analysis program was written and tested during the fourth quarter of fiscal 1982. In fiscal 1983, this system was implemented, refined with the development of additional management information reports, and expanded to Special National Office programs. As of Aug. 8, 1983, some \$32 million in excess cash had been identified as savings in fiscal 1983. With the electronic fund transfer system in place, the problem of excess cash drawdowns should be significantly reduced. The reduction in excess drawdowns between fiscal 1982 and fiscal 1983 was in the neighborhood of \$55 million dollars.

ETA in fiscal 1982 began the development of an automated plan-procurement process tracking system. This system was designed to control the procurement process from approval of the project by the Assistant Secretary and its inclusion in the advanced annual procurement plan, through the signing of the contract/grant. This process was completed and all present and future ETA procurements approved for funding will be identified in the plan procurement tracking system and their status will be continually available for monitoring. The system has an online, ready retrievable capability.

In fiscal 1983, ETA had an information collection budget plan of 6,402,800 burden hours, which constituted a 317,800 burden hour reduction from the fiscal 1982 level. Through the development of a burden hour reduction tracking system and a reports tracking system, ETA achieved an actual reduction of 785,700 burden hours. This reduction is more than double the goal for the year and a 12 percent reduction from the previous fiscal year total.

Audit Resolution, Contract/Grant Closeout

A basic objective of ETA is the resolution of all outstanding audits and the elimination of backlogged contract/grant closeout activity. During fiscal 1983, ETA made notable progress toward meeting this basic objective by resolving 631 audits of contracts and grants. As a result of the audit resolution process, total debts to ETA of \$67.3 million were established, a significant increase over the total debt established in fiscal 1982. (Of the 631 audits resolved, 224 were appealed to a Department of Labor administrative law judge.)

Also during fiscal 1983, 917 contracts/grants were closed out. An additional 519 expired contracts/grants were pending closeout

at the end of fiscal 1983. These could not be closed for a variety of administrative reasons, including debt collection, appeals, unresolved audit issues, and resolution cost rates.

In addition, ETA emphasized a preliminary closeout cash collection effort in which grants/contracts that had ended, but had remaining unspent funds, were preliminarily closed by collecting funds remaining and not needed for closeout. In fiscal 1983 some \$15 million were collected through this effort.

Program Integrity and Debt Management

During fiscal 1983, a specific unit devoted to debt collections was created to administer a program to satisfy monetary claims against grantees and contractors. Procedures were developed to refer appropriate debt cases to the Department of Justice and the General Accounting Office (GAO) for enforced collection. Total ETA debt collections were in excess of \$18 million.

The Special Review Unit continued to administer a program to determine statutory and regulatory compliance. Allegations of impropriety received through the GAO and Inspector General Hotline Systems, Incident Report System (IR), and through other sources were investigated, coordinated, and resolved or referred to the appropriate Government agencies for judicial review. Over 450 IR, GAO, and IG inquiries were handled during the year. Also a preaward review program was established to provide information on the financial and administrative practices of prospective grantees and contractors to insure the integrity of ETA programs.

An Internal Control Unit was established to direct the development, implementation, and administration of a program to satisfy the requirements of the Federal Manager's Financial Integrity Act of 1982 and OMB Circular A-123. The act prescribes policies and standards to be followed by all executive departments in establishing and maintaining effective systems of internal controls to determine if funds, property, and other assets are properly safeguarded to eliminate waste, loss, unauthorized use, or misappropriation of assets. All ETA programs and functions were assessed to determine their vulnerability to occurrence of waste, loss, unauthorized use, or misappropriation. More comprehensive reviews of 16 of those programs and functions were performed.

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Bureau of Labor Statistics

The leadership of the Bureau of Labor Statistics (BLS) was secured for another four years with President Reagan's reappointment of Janet L. Norwood as its Commissioner for her second four-year term. Following a unanimous vote of the Senate confirming the President's nomination, she was sworn in by Secretary Donovan on June 13, 1983.

As the economy improved in the early months of fiscal year 1983, the intense public scrutiny of the Bureau's principal macro-indicators, which generally accompanies adverse economic conditions, subsided; inflation began to slow early in the year followed by some moderate improvement in the unemployment rate.

During this upward turn in the economy, significant conceptual changes were implemented in two macro-economic indicators, without serious public controversy:

- The Armed Forces were added to the labor force data in February 1983. This change in concept, recommended by the National Commission on Employment and Unemployment Statistics and supported by the Secretary of Labor, resulted in an unemployment rate that was only about 0.1 percent less than the civilian rate at the time of the initial publication. Both rates are now published in the Employment Situation release.
- The housing component of the Consumer Price Index was changed to a rental equivalence concept with the data for January 1983, in line with a previously announced schedule. This change reflected the continuing interest rate crisis that precipitated sharp changes in financial arrangements for house sales, unresolved problems with the FHA data on house prices, and the expanding use of the index for escalation purposes. For these reasons, the Commissioner decided not to wait for the next revision of the index to make this change.

The Bureau continued efforts to modernize the establishment survey of employment, hours, and earnings and continued work on the implementation of a redesigned Current Population Survey. In addition to the technical authority BLS has long held for labor information statistical programs, funding and managerial control were transferred to the Bureau from the Employment and Training Administration.

The revisions of the Producer Price Index continued, and industry coverage expanded from 149 to 230 industries. In addi-

tion, the Bureau published initial data from the 1980-81 Consumer Expenditure Survey.

The Bureau substantially strengthened its Employment Cost Index through a sample replacement effort in the service, construction, finance, and insurance industries. In addition, planning began on converting the ECI to the new Standard Occupational Classification system.

For use in the Federal pay comparability process, BLS issued the annual survey of professional, administrative, technical, and clerical pay. The Bureau also released its fourth annual report on paid leave and employee benefit plans in medium and large firms, a unique source of comprehensive data on detailed characteristics of employee benefits in private industry.

BLS made substantial progress in strengthening and expanding its program of measurement and analysis of productivity and technology. The Bureau provided organizational support and background papers for the White House Conference on Productivity which was held in September 1983. The publication for the first time of multifactor productivity measures for major sectors of the economy, and the release of additional industry measures, broadened the coverage of the Bureau's measurement program. BLS prepared reports on trends in technology and their implications in several major U.S. industries.

The Bureau conducted special analyses on high technology employment growth and on supply/demand conditions for engineers. Projections of the labor force and industry and occupational employment to 1995 were prepared. These projections included information on the job outlook that will appear in the 1984-85 edition of the *Occupational Outlook Handbook*.

The Bureau published estimates of occupational injuries and illnesses and issued three work injury reports. Under the Supplementary Data System, the frequency of the coding of State workers' compensation data was changed from an annual to a biennial basis.

The *Monthly Labor Review*, one of the Bureau's major periodicals, won first prize in a national publications competition.

Employment and Unemployment Statistics

With release of data for January 1983, the Bureau began publication of several new data series, including a new total unemployment rate that added members of the resident Armed Forces to the labor force and employment counts. A recommendation of this addition by the National Commission on Employment and

Unemployment Statistics was accepted by both Secretary Marshall and Secretary Donovan.

BLS work continued on the implementation of a redesigned Current Population Survey (CPS) in coordination with the Bureau of the Census and a consortium of Federal agencies. Mid-1985 is the target date for introduction of a new sample incorporating information from the 1980 Census of Population.

The Bureau continued to meet the labor force data needs—heightened by the recessionary period—of the press, business, academia, Congress, and government agencies. Analyses issued included the regular monthly summaries of employment and unemployment, as well as the semiannual and annual reporting, plus quarterly reports on weekly earnings, women in the labor force, and minorities. Special research projects resulted in articles on the employment status of families, regional unemployment, older workers and, among others, workers on layoff and shortened workweeks. Also, the Bureau issued several new publications, including *Workers Without Jobs: A Chartbook*; *Women at Work: A Chartbook*; and *Workers, Jobs, and Statistics*. The Bureau's second annual report examining the impact of employment problems on the economic well-being of families was published.

The Bureau completed the negotiation of cooperative agreements for labor market information statistical programs with 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. In addition to the technical authority BLS has long held for these programs—Current Employment Statistics, Local Area Unemployment Statistics, and Occupational Employment Statistics—funding and managerial control were transferred in 1983 to the Bureau from the Employment and Training Administration (ETA).

The Bureau continued efforts to modernize the establishment survey of employment, hours, and earnings. Projects were introduced to determine the appropriate estimating cell structure and the feasibility of collecting new types of data, such as hours and earnings of all employees. These studies should provide important information for long-term evaluation of alternative sample design and data collection techniques. Also, tests began for the application of new computer technology toward the goals of improving data quality and timeliness and, for the future, providing a means for reducing State costs in this and other BLS Federal/State cooperative programs.

The Bureau developed industry-occupational employment estimates for nonmanufacturing industries, based on data collected through the Occupational Employment Statistics (OES) survey. A

redesigned occupational structure for the OES program, based on the Federal Standard Occupational Classification system, was used in developing survey questionnaires for the 1983 OES survey of manufacturing industries and hospitals.

The employment and wage program (ES-202) objectives continued to be focused on improving the quality and efficiency of the operations of cooperating State agencies. Some 45 States are now reporting 4-digit Standard Industrial Classification (SIC) data at the county level. Specifications for the new county level macro edit were completed. Early results of tests of the revised industry verification process for SIC refiling point to greatly reduced State workload and cost, decreased respondent burden, and improved response.

Work began on a photocomposition process for the publication of employment and wage data. The Department of Labor introduced use of employment and wage data in computation of wage rates to be paid to alien farm workers. To determine hospital cost reimbursements under the Medicare program, the Health Care Finance Administration is using the new hospital industry wage indexes, also produced in the program, which were developed for all Metropolitan Statistical Areas (MSA's).

The passage of antirecessionary job creation legislation created an unanticipated demand for local area employment and unemployment data from a variety of Federal agencies, many of which had not before used local area unemployment statistics for allocation purposes. This demand required close coordination between the agencies and BLS to develop a number of special tabulation packages. In addition, for the administration of the new Job Training Partnership Act, data for areas of substantial unemployment were provided to ETA on schedule.

The development and testing of new methods for preparing labor force and unemployment estimates for States and metropolitan areas neared completion. The initial phase of research in the development of models was completed for three types of estimates: (a) employment by State; (b) unemployment rates by State; and (c) unemployment rates for large Labor Market Areas. A system for improving the estimation of nonagricultural wage and salary employment in small areas was developed and is being tested in a number of States. Incorporation of 1980 census data into the Local Area Unemployment Statistics estimates continued. States began using 1980 census data in the development of area youth population ratios, in the disaggregation of data on unemployment insurance claimants in multicounty labor markets, and in the census-share disaggregation of cities.

As a result of the use of computer software introduced last year, the Bureau's publication of the 1982 edition of *Geographic Profile of Employment and Unemployment* was issued substantially earlier than in prior years.

Prices and Living Conditions

The program to develop an improved measure of rental equivalence costs of owner-occupied housing, begun in fiscal year 1982, was completed. The new rental equivalence measure replaced the homeownership component of the Consumer Price Index for All Urban Consumers (CPI-U) in January 1983. In addition, the program to update the CPI outlet sample in one-fifth of the CPI pricing areas went forward as scheduled in 1983 and will continue next year.

During 1983, plans were refined for the next revision of the Consumer Price Index. Attention was focused on how work on some major technical issues would affect the revision's schedule. The revision is scheduled to begin in 1984 and be completed in 1988. Publication of the revised index will begin with data for January 1987.

The revision of the Producer Price Index continued; publication of revised indexes, in which scientific sampling and improved data collection techniques were used, expanded from 149 industries in 1982 to 230 in fiscal 1983. In 1984, coverage will be further expanded to 315 industries.

In the International Price Program in fiscal 1983, publication of indexes for imports was expanded from 96 percent of the value of products imported into the United States to 100 percent. Price indexes for exports were expanded from 71 percent of the value of products exported to 83 percent. Export coverage will be expanded to 100 percent in 1984.

In 1983, the first data were published from the Consumer Expenditure Survey (CES), consisting of expenditure estimates for frequently purchased items, such as food, for the years 1980 and 1981. Work continued on the development of the computer system for processing CES data.

Approximately 1.5 million copies of printed materials were distributed in response to more than 490,000 recorded requests for data and other information. These figures exclude an extremely heavy correspondence and analysis workload in response to written and telephone requests from the Congress, policymaking agencies in the executive branch, private businesses, labor, and the general public.

Wages and Industrial Relations

The quality of the Bureau's Employment Cost Index data was enhanced through a sample replacement effort that substantially strengthened the ECI in the service, construction, finance, and insurance industries. Planning was begun to introduce current employment weights and to convert the ECI to the new Standard Occupational Classification (SOC) system. Because the processing cycle has been shortened, the ECI news release is being issued 2 weeks earlier than in 1982. The release is now issued during the fifth week after the end of the reference month instead of the seventh.

The Bureau delivered the annual survey of professional, administrative, technical, and clerical pay (PATC) on schedule for use in the Federal pay comparability process. During the year, research continued in developing survey efficiencies, such as occupational subsampling, that permit adherence to the tight production schedule. These efficiencies take on added importance because of the new and revised jobs in the computer area that will be included in the 1984 survey. In the area of improving data quality, the staff successfully implemented a new Job Match Validation procedure that stemmed from recommendations in the 1982 GAO audit report on the PATC survey.

The Bureau released its fourth annual report on paid leave and employee benefit plans in medium and large firms. The survey provides a unique source of comprehensive data on detailed characteristics of employee benefit plans—leave, pensions, and a variety of insurance—in private industry. Since the first report, published results have been expanded from 21 to 50 statistical tables that distribute plan participants according to the detailed provisions. The current bulletin includes much data not previously available. The PATC survey again was the vehicle for collecting the fiscal year's benefit data. This program produced two articles for the *Monthly Labor Review* based on the health insurance data—one in June 1982 describing the coverage and employee premiums in Health Maintenance Organizations (HMO's); the other in July 1982 analyzing developments in major medical coverage between 1974 and 1981.

Because of resource shortages, the Bureau was unable to conduct a feasibility test for integrating the benefits program with the Employment Cost Index—the first phase of a comprehensive linkage project to make the wage and benefit plans program more cohesive and cost effective.

The Bureau conducted area wage surveys in 70 metropolitan areas under its regular program of occupational wage surveys. In

21 of the areas studied, information was collected for the first time on the incidence of formal provisions for supplementary unemployment benefits; severance pay; cost-of-living adjustments; and paid leave for personal reasons, jury duty, funerals, and military duty. New job descriptions for word processors and material handling laborers were developed and tested for introduction into the 1984 survey program. An analytical article on occupational wage relationships within establishments was published in the November 1982 *Monthly Labor Review*.

Under contract to the Employment Standards Administration (ESA), the Bureau conducted 80 area wage surveys and 62 special industry wage surveys for use in administering the Service Contract Act. In six of the areas, data were obtained for the first time on wages in government; this brought the number of such areas to eight. In another area, Colorado Springs, the collection of information on employer costs for employee benefits was successfully tested and the results published in June 1983. Planning was begun for a test survey of construction wages and employee benefits, to be conducted for ESA during 1984 and 1985, which will test the feasibility of using statistical sampling techniques for making wage determinations under the Davis-Bacon Act.

As the result of fiscal year 1982 budget cuts reducing the industry wage survey (IWS) program by approximately 40 percent, the program was revised this year; 15 studies were dropped and 1 was added. The total number of studies in the program is now 40 (25 manufacturing and 15 nonmanufacturing) representing approximately 65 industries. Eight surveys were conducted this year—down from 12 to 15 conducted annually prior to the cut.

A testing of the occupational wage computer program for photocomposition of IWS locality releases was a success—both in timeliness and print quality. Photocomposition will be used for all IWS locality releases. Photocomposition of IWS bulletins continues to trim an average of 1 month from the time between the survey reference date and publication.

Two research projects that could improve the efficiency of data collection were begun this year and will continue into 1984. The first is measuring variances of the industry wage survey estimates which, if desired precision is met, could reduce the needed sample size. The second effort is aimed toward coordination of data collection between industry and area wage surveys.

The Bureau compiled universes and selected samples for approximately 170 occupational wage surveys for the Federal Wage System (FWS) in 1983. Development began on a sample selection procedure for this project that will maintain a desired degree

of continuity from one year's survey to the next. The procedure must be operational by June 1984 when the second round of sample selection begins.

Data on the size of major collective bargaining contract settlements in private industry—a principal economic indicator—were published each quarter. During the year, tabulations were added to the series to aid in the analysis of two unusual developments that occurred in collective bargaining—unscheduled contract reopenings and negotiated reductions in wages and benefits. Data on the size of settlements in State and local government were issued on the regular semiannual schedule.

Publication of the *1983 Bargaining Calendar* provided data on major contracts in private industry scheduled to expire or subject to reopening during the year. An article that examined 1983 bargaining and highlighted key bargaining situations was published in the January 1983 *Monthly Labor Review*. The article also analyzed negotiated wage increases and cost-of-living reviews scheduled for 1983.

Other major articles published were a review of important events in labor-management relations in 1982, and an examination of wage and compensation changes in private industry during 1982.

Current Wage Developments was issued each month. It highlighted key wage and benefit negotiations and industrial relations developments and provided the details of wage and benefit changes in major collective bargaining situations and selected nonunion situations. It listed as well major work stoppages in effect and major collective bargaining agreements expiring each month. Extensive data on changes in employee compensation were also provided monthly.

Productivity and Technology

BLS made substantial progress in strengthening and expanding its program of research and analysis of productivity and technology. Productivity measures are widely regarded as a major indicator of U.S. economic progress, and the Bureau provided organizational support and background papers for the White House Conference on Productivity held in September 1983.

Multifactor productivity measures were announced for the first time, and a comprehensive bulletin was published which reviewed the results and explained the methodology and data sources. These measures advance a major BLS effort to expand official productivity measures to take account of the role of capital inputs in

changes in U.S. labor productivity. They are also another step in the Bureau's continuing effort to study factors that influence productivity performance. These include changes in the composition of the labor force, trends in the ratio of hours worked to hours paid, and capacity utilization adjustments for capital inputs used in the measures.

Preliminary estimates also were completed in fiscal 1983 on the stock of research and development capital to evaluate its contribution to productivity growth. In addition, considerable progress was made in the preparation of multifactor productivity measures for detailed manufacturing industries.

The number of industries for which BLS publishes productivity data also was expanded. The Bureau introduced new productivity measures for plastics, valve and pipe fittings, fabricated pipe and fittings, and electric metering instruments. A total of 120 separate productivity measures are now issued for industries in the manufacturing, mining, transportation, trade, communication, and service sectors of the economy.

The Bureau also made progress in measuring productivity in the Government sector. The productivity measures for the Federal Government are being updated to cover fiscal year 1982. These measures currently cover fiscal years 1967 to 1981 for 28 functional groupings of Federal agencies, representing 64 percent of the Federal civilian work force. In addition, a bulletin on measuring productivity in State and local government activities was submitted for publication.

In the international area, the Bureau updated trends in manufacturing productivity and labor costs for 11 countries, and introduced new trade-weighted relative indexes. In addition, the staff completed estimates of the comparative levels of compensation of production workers in 34 countries and 36 manufacturing industries. The Bureau also updated international comparisons of labor force, employment, and unemployment in nine industrial countries. These measures provide insights into the changing competitive position of the United States.

In response to widespread public interest, the Bureau continued to assess the employment implications of automation and other technological changes. Reports appraising the impact of major technological changes on productivity, employment, and occupational requirements over the next 10 years were prepared for five additional major American industries—printing and publishing, water transportation, copper ore mining, fabricated structural metal, and intercity trucking.

A report on construction labor and material requirements in retail stores and shopping centers is nearing completion. This will be the final study of this type because the program has been eliminated as a result of budget reductions.

Economic Growth and Employment Projections

During fiscal 1983, a new set of labor force, economic, and industry and occupational employment projections to 1995 was completed. In addition, the 1984-85 edition of the *Occupational Outlook Handbook* was prepared. National industry-occupation matrices for 1982 and 1995 based on data from the Occupational Employment Statistics surveys were also prepared. Special analyses were conducted on supply-demand conditions for engineers, training for professional computer occupations, and on occupational patterns of young people who enter the labor force. The results of these analyses were published in the *Occupational Outlook Quarterly*.

In addition, in fiscal 1983, the Bureau conducted a study that analyzed current and projected employment patterns in high-technology industries. The Bureau also studied the employment requirements generated by changes in defense and highway expenditures. Current summaries of the principal economic indicators were also prepared and BLS provided a monthly summary and analysis of short-term economic forecasts.

Occupational Safety and Health Statistics

The Occupational Safety and Health Act of 1970 requires statistical programs to meet Federal and State needs and provides for Federal funding to encourage State participation in these programs. BLS activities for recordkeeping, the annual survey, the Supplementary Data System, and the Work Injury Report surveys are all carried out with State participation.

In fiscal 1983, the Bureau published the 1981 national estimates of occupational injuries, illnesses, and fatalities, and conducted its twelfth annual survey of employers nationwide. Under the Supplementary Data System (SDS), 31 States received funding for the continuation of statistical programs based on workers' compensation records. Under the Work Injury Report (WIR) survey program, three reports on completed surveys were published and three additional reports were in progress.

In November 1982, BLS released national estimates of occupational injuries and illnesses for calendar year 1981. More detailed statistics by industry were published in a bulletin in January 1983.

Industry guides for construction, manufacturing, transportation and public utilities, and trade were also published, based on 1981 data. The guides are updated each year. Occupational fatality estimates and causal characteristics appeared in an article in the May 1983 issue of the *Monthly Labor Review*. Individual State estimates for 1981 were produced by 38 States.

In fiscal 1983, 33 States, two without funding, participated in the occupational injury and illness SDS system based on workers' compensation first reports of injury. However, by direction of the Office of Management and Budget, BLS did not systematically collect or process the 1982 State workers' compensation data. From 1976 to 1982, the SDS data series had been maintained annually. The data are used by the Occupational Safety and Health Administration to focus on special problem areas, such as the injury and illness experience of young and inexperienced workers. Standard SDS tabulations, showing distributions of occupational injuries and illnesses by work characteristics and work situations, as well as microdata for each participating State, are also available for general research purposes.

The Work Injury Report (WIR) survey program obtains detailed accident information directly from injured employees. Results from three WIR studies were published in fiscal 1983; hand injuries, upper extremity amputations, and injuries in oil and gas drilling and services. Work continued on the WIR reports for falls from elevations, falls on stairs, and injuries in logging. The Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health use results of WIR studies to evaluate and develop safety standards, compliance strategy, and training programs.

Managerial Initiatives

Managerial initiatives during fiscal 1983 continued to center on improving the accountability of the individual managers for the effectiveness of the program or service within their purview. The following other advances were made during the year:

- *Reorganization:* To strengthen managerial leadership and policy direction, the Bureau established the new position of Deputy Commissioner for Administration and Internal Operations and restructured—to bring under the new deputy—the Offices of Administration, Survey Operations, and Technology and Operations Review. The Bureau also strengthened the Office of Research and Evaluation to assure adequate support of quality improvements and conceptual and statistical advances among the Bureau's indicators.
- *Labor-Market Information Programs:* This year the Department of Labor centralized within BLS all managerial respon-

sibility for the national labor market statistical programs: The current employment statistics program (BLS 790), the occupational employment survey, and the local area employment statistics program. In anticipation of the transfer of resources from the Employment and Training Administration to cover the State operations of these programs on October 1, 1983, the Bureau developed new administrative and management procedures as well as the specifications for the cooperative agreements with the States to cover these operations. This assumption of complete managerial responsibility for these programs is expected to remove many inefficiencies stemming from divided control between BLS and ETA.

- *Reduction of Reporting Burden:* The Bureau continued to attend to the requirements of the Paperwork Reduction Act of 1980 to reduce the reporting burden on survey respondents. Even though during the year the burden increased slightly as a result of new survey work authorized by Congress, reductions were made that reflected improved sample efficiency.
- *Confidentiality of Bureau Data:* The Bureau continued its efforts to secure legislation that would provide legal assurance of confidentiality to survey respondents. Since the Office of Management and Budget is developing similar legislation that would protect all Federal programs, the Bureau cooperated in these broader efforts while at the same time seeking separate legislation to protect its own data until such time as the OMB proposal becomes operative.
- *Security of Bureau Data:* The petition, made to the Commodity Futures Trading Commission during the year by the Coffee, Sugar, and Cocoa Exchange, and the Mid-Atlantic Commodity Exchange, to sell futures contracts on the Consumer Price Index and some components of the Producer Price Index each month centered attention on the Bureau's capacity to provide absolute security for its data. Premature release—if accomplished—might provide a monetary advantage to speculators. Even though the Bureau has an unblemished record in terms of protecting its data, plans were developed to tighten control of building and office entry, particularly in those areas in which sensitive data are housed.
- *Computer and Communications Services:* In accordance with a proposal approved by Congress last year, the Bureau developed plans to purchase new equipment to provide many technological improvements. These included more rapid and accurate data collection, machine editing of survey data, expanded statistical and econometric analysis, and more rapid communication among all Bureau offices, both national and regional.

Occupational Safety and Health Administration

In 1983, the Occupational Safety and Health Administration (OSHA) extended and refined its efforts to achieve program balance in the areas of regulation, service, assistance, and training. It sought to foster a spirit of cooperation between the government and the industrial community (employer and employee) in working toward the mutual goal of improved workplace safety and health.

Efforts continued to promulgate reasonable and effective regulatory standards for workplace safety and health. Standards-setting procedures were refined to firmly establish need, efficacy, feasibility, and methods of compliance. OSHA perceived standards enforcement as a cooperative rather than adversarial exercise; establishing a safe and healthful workplace was preferred to responding to problems with punitive measures.

The achievement of OSHA's goal was further realized through service and assistance offered to employers and employees. Field offices became centers to make the resources and expertise of OSHA and any related governmental organization available to the affected publics. To assist the employer, a program was established to help evaluate the potential for hazardous or unhealthful conditions in a workplace. The thrust was toward teamwork as best serving mutual goals.

In addition, a program of training was offered to employers and employees to further stimulate interest in establishing a safe and healthful workplace without hazards, that is, to take preventive measures rather than wait for government inspection.

Finally, these programs were implemented through a concerted effort to improve internal management and information handling. A combination of management training and automated information processing was undertaken.

Management

A key objective for OSHA in 1983 was to further refine the IMS, the Integrated Management System, designed in 1982 to help OSHA become a more efficient organization, achieving its goal within authorized personnel and budget ceilings. This improved management system also enabled OSHA to emphasize the agency's programs equally, increase awareness of OSHA activities, en-

courage public participation in standard-setting, and stimulate private sector efforts to improve workplace conditions.

In order to deliver the full range of OSHA's safety and health services and information more effectively, OSHA assigned special importance to its area offices as focal points for the agency's delivery of services to the public. OSHA's area offices, now known as Full Service Area Offices, operated in their respective areas as resource centers for safety and health information and delivery services for employees and employers, the general public, safety and health professionals, and State agencies.

Another management innovation, the IMIS, Integrated Management Information System, begun in 1982 and more fully implemented in 1983, assured a more efficient operation of the area offices; more information about State operations; improved debt collection procedures; and more accurate and timely data concerning OSHA's enforcement activities.

These systems (IMS and IMIS) allowed the agency to interpret quickly and accurately rates of workplace injuries and illnesses; develop and improve program initiatives; and respond to questions regarding OSHA's resource management. With these systems in place OSHA could then operate a responsive, balanced health and safety program nationwide.

In another area, the OSHA Training Institute in Des Plaines, Ill., developed a Management Training Program for OSHA managers to acquaint them with new agency policies, objectives, and advanced management techniques. During fiscal 1983, 250 OSHA managers attended this week-long, comprehensive management course.

Standards-Setting

OSHA's Regulatory Management System (RMS) established in 1982, is the means by which the agency ensures that safety and health standards are reviewed and issued in a thorough, timely fashion. Procedures of the RMS aim at producing standards that protect workers both adequately and cost-effectively. The backbone of the RMS is a four-step process developed for the issuance and review of standards. It is consistent with key court decisions—especially the Supreme Court's landmark benzene ruling—and with the President's executive order on Federal regulation. The four-step process includes the following: (1) Establish that a hazard poses a significant risk; (2) show that the standard under consideration would substantially reduce that risk; (3) set the most protective exposure limit to the hazard that is economically and technologi-

cally feasible; and (4) issue requirements, such as engineering controls, personal protective equipment, and training, that achieve the regulatory goal in the most cost-effective way.

During the fiscal year, OSHA proposed to streamline and sharpen the focus of its rule on access to employee exposure and medical records. By clarifying and tightening access provisions, the proposed changes are expected to encourage employers to monitor exposures and maintain records, safeguard trade secrets, and reduce compliance costs with no reduction in benefit to employees.

Public comment was called for in fiscal 1983 on the following health standards issues: (1) the relative merits of engineering controls and personal protective equipment in limiting worker exposure to air contaminants; (2) on the question of whether the agency should develop a proposed field sanitation standard for agricultural workers; and (3) on the parameters of standards for exposure to 4,4'-methylenedianiline and benzene.

During the year OSHA also changed its interpretation of the definition of coal tar pitch volatiles to exclude fumes from petroleum asphalt; it established an expedited variance system to allow small employers more time to comply with portions of the lead standard.

Although some health standards actions proceeded more slowly than anticipated, major actions (not necessarily final actions) were completed, particularly with regard to hazard communication to assure workers access to key safety data, and asbestos to reduce the permissible workplace exposure limit. Also, new standards have been proposed for cotton dust, the fumigant ethylene dibromide, and for the sterilant ethylene oxide.

OSHA's standard on benzene exposure, revised in 1978, was set aside by the Supreme Court in 1980 on the basis that OSHA had demonstrated no reasonable relationship between the cost of compliance with the standard and reduction of risk to employees. To restore protection for employees exposed to the cancer risks of benzene, the agency began work in fiscal 1983 on a new revision that it hopes to complete in 1984.

On March 8, 1983, OSHA issued an amendment to its hearing conservation standard to improve hearing protection for 5.1 million workers. Revised requirements included provisions covering noise monitoring, hearing tests for workers, recordkeeping, and hearing protectors. The hearing conservation amendment is a performance-oriented standard that continues to reduce work-related hearing loss; permits employers more flexibility in how they achieve the necessary protections; and results in annual cost savings of \$81.4 million over the previous rule.

Standards on respirators and the agency's policy on the regulation of workplace carcinogens were under review.

After extensive experimental programs, guidelines were announced on alternative methods to protect workers from certain rotating drilling equipment as well as on ways to test worker protection techniques in the oil and gas well drilling industry.

OSHA also has called for comment to help improve its concrete construction standards, rules on commercial diving operations, and a regulation on powered platforms for hoisting personnel who work on exterior building maintenance.

Sixteen safety standards are targeted to be addressed by 1984—as many safety rules as the agency issued in the previous 11 years.

Enforcement

OSHA continued to focus inspections on high-hazard workplaces. By giving top priority to both enforcement and consultation resources to companies in the most hazardous industries, OSHA can make the greatest possible impact on safety and health in the workplace. Also, OSHA refined its traditional focus on hazardous industries by developing a method to target safety inspections on the most hazardous individual worksites in the manufacturing sector.

The inspection trigger is a worksite's mandatory log of injuries. When OSHA inspectors arrive at the site of a high-hazard manufacturer, they first check the log. If the lost-workday case rate, because of injury, is higher than the national average for all manufacturing, the inspector inspects. If the rate is lower than average, the inspector usually terminates the inspection visit after meeting with management and labor representatives, answering all questions, and responding to worker complaints, if any. This method enabled OSHA to make an impact on all the firms it visited and focused the full, more time-consuming walkaround inspections on those plants that really needed them.

During fiscal 1983, OSHA inspected 68,577 workplaces, exceeding its planned total for the year by 5,000. Actual inspections accounted for 85 percent of the total, while OSHA's records reviews in companies with better than average injury rates accounted for the remaining 15 percent of companies visited.

Of the total inspections, 86 percent were "general schedule" inspections—those targeted by the agency toward companies in industries that have higher than average incidence rates for serious workplace injuries.

OSHA continued to emphasize inspections in the construction industry, the most hazardous of the major industry sectors the agency covers. The 33,862 construction inspections OSHA conducted in fiscal 1983 represented 49 percent of the total, compared with 29,262 inspections and 48 percent for the same period in 1982.

OSHA began a special emphasis program for safety inspections of grain elevators in February 1983. Selected elevators underwent complete safety checks to raise OSHA's profile in the industry and to promote management and labor attention to possible fire and explosion hazards.

Other improvements included a new policy for handling worker complaints, for citing repeat and General Duty Clause violations, and for citations at multiemployer worksites. OSHA issued a code of professional conduct and a directive to be sure its inspectors not only cite violations, but offer suggestions on how a problem can be corrected.

Fewer followup inspections were reported this year, in keeping with the agency's policy of confirming hazard abatement (for other than serious, willful, and repeat violations) through telephone and written contact, rather than a second inspection. In the past, fewer than 1 percent of these inspections resulted in citations for failure to abate previously cited hazards. The 1,590 followup inspections in fiscal 1983 accounted for 2 percent of the total compared with 1,566 followup inspections and 3 percent in fiscal 1982.

Finally, OSHA continued to emphasize settlement agreements between its area directors and employers who disagreed with OSHA findings during inspections.

In fiscal 1980, 22 percent of all OSHA inspections with violations were contested by employers before the Occupational Safety and Health Review Commission. While employers were not required to abate hazards that were the subject of a contest action, under the settlement agreement policy the current contest rate dropped to below 4 percent. This allowed inspectors more time for inspections since they needed to spend less time in court. More importantly, abatement of hazards occurred more speedily, thus protecting workers sooner.

OSHA's enforcement effort was better directed, better received, and more effective in reducing hazards than ever before.

The Office of Compliance Programming developed, established, and disseminated, through established channels and operating procedures, directives and guidelines necessary to ensure an effective and viable compliance and enforcement program.

The following describe several recent programs from the compliance office: (1) an instruction setting guidelines for commer-

cial diving operations; (2) an instruction for enforcement of cargo gear regulations and the requirements for gear certification in the maritime program; (3) an instruction providing a Cotton Dust Manual establishing OSHA policy and procedures necessary for enforcing the cotton dust standard; (4) an instruction listing laboratories approved for blood lead sampling analysis in line with the requirements of the lead standard; (5) an instruction providing guidelines for the enforcement of Section 5(a)(1) of the OSH Act—The General Duty Clause; and (6) an instruction implementing guidelines on de minimus violations that have no direct or immediate relationship to safety and health.

A new targeting system was initiated which enabled OSHA to identify 224 high-hazard Federal establishments that would now be scheduled for consultation or inspections. Federal agencies were being integrated into the overall OSHA program in the field, with new procedures for handling complaints and fatality/catastrophe investigations. The Presidential award program for Federal agencies with good safety and health programs was reinstituted during fiscal 1983. The first place winners, based on size category, were the U.S. Postal Service, the smaller component agencies of the Department of Defense, and the Civil Aeronautics Board.

Voluntary Efforts

Employer-employee assistance was greatly emphasized during fiscal 1983 with the explicit goal of delivering a better balanced program of safety and health.

A system for prioritizing consultation requests was implemented, and improvements were initiated in the training of consultants and in the evaluation of consultant performance. A seven-State experimental inspection exemption program based on a successful consultation visit was conducted during the year. The experimental program, begun July 9, 1982, was available to some 835,000 workplaces employing 12.7 million people in Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, and Texas. Originally scheduled to end January 1983, it was extended until July 12, 1983, to permit further evaluation. Based on the experiment's success, a nationwide expansion of the program will be proposed shortly. Also comprehensive changes to the consultation regulations were drafted and will be proposed early in fiscal 1984.

In July 1982 a nationwide voluntary program was inaugurated to recognize firms with excellent safety and/or health programs. Under the program, participants are exempted from routine inspec-

tions though workers and employers retain all rights and responsibilities under OSHA law. The agency will continue to inspect worker complaints and any serious accidents at participating workplaces. More than 20 agreements were signed in the fiscal year between OSHA and companies meeting the criteria of the new Voluntary Protection Programs. Participants included: Combustion Engineering, Inc., Stamford, Conn. (11/10/82); Dravo Constructors, Inc., of Pittsburgh, Pa. (2/2/83); Georgia Power Company, Monroe County, Ga. (6/3/83); DuPont Company, Circleville, Ohio (6/20/83); and DeLisle, Miss. (6/20/83); Metco, Inc., Long Island, N.Y. (7/5/83); High Steel Structures, Inc., Lancaster, Pa. (5/4/83); and Hensel Phelps Construction Company, Denver, Colo. (8/17/83).

OSHA also undertook joint initiatives with ASARCO, Inc., the Kennecott Copper Corporation, and the United Steelworkers to develop cooperative agreements at seven U.S. smelters with significant arsenic exposures. Agreements covering several plants were signed, and others will be completed shortly to determine appropriate worker protection control methods while maintaining the long-term profitability and competitiveness of the industry.

In addition, OSHA agreed to assist the American Electronics Association in designing job safety and health training programs for companies in the U.S. electronics industry.

During the year, a voluntary questionnaire was handed out by OSHA inspectors at firms inspected, encouraging employers and employee representatives to evaluate the professionalism of the agency's enforcement staff. The questionnaire produced positive results. An overwhelming percent of the questionnaires returned gave inspectors high marks for their professionalism and concern about safety and health matters.

In April 1983, OSHA began a nationwide campaign to improve worker protection against eye injuries, a project developed in cooperation with the National Society to Prevent Blindness. The project included special information and education efforts as well as emphasis on eye safety during inspections.

State Programs

OSHA's State program area is a good, cohesive operation that is now integrated into the overall OSHA program so that the 24 States and territories that are running their own OSHA program feel they are independent, and yet a part of a united policy approach for dealing with occupational safety and health issues.

The Federal staff assigned to monitor State plans, which was reduced in an earlier move, led to the establishment of a data-based system to monitor State program efforts. During fiscal 1983, the agency continued work on perfecting the new data-based monitoring program. By removing Federal compliance officers from States that operate their own safety and health program and transferring them to States where Federal OSHA administers this program, dual enforcement was eliminated.

In another area, a committee of representatives from States with their own OSHA programs was formed to develop alternative approaches to State safety and health standards for OSHA's consideration. OSHA also convened a task force of State designees to provide input for revising State plan compliance staffing levels. Under another cooperative program, 19 States have agreed to participate in the OSHA Integrated Management Information System (IMIS) thus assuring the availability of much more comprehensive data on State and Federal enforcement activities.

Certification of State programs in Nevada, Arizona, Indiana, the Virgin Islands, Washington, Puerto Rico, and Oregon brought the number of certified State programs to 21. Certification is a necessary prerequisite before final OSHA approval can be granted to a State to operate its own program. OSHA also signed operational status agreements with Minnesota, the Virgin Islands, New Mexico, Wyoming, Nevada, Arizona, Puerto Rico, Indiana, Virginia, and Iowa, thus removing concurrent Federal enforcement in all State-plan States.

Although no final approvals were granted to any State programs during fiscal 1983, proceedings were initiated for the Virgin Islands and Hawaii, and a public hearing was held to discuss final approval for the Virgin Islands' safety and health program.

Training, Education and Consultation

During the year, all curricula at the OSHA Training Institute were revised to reflect increased training in professionalism, emphasis on voluntary protection programs, and the latest information in the occupational safety and health sciences. Forty-six different courses were conducted at the Institute and in the field. Staff at the Institute increased in 1983 to 38. The number of trainees completing courses was 6,792 compared to 4,389 in 1982. And the budget allocated for fiscal 1983 was \$3,753,000, an increase from \$2,051,500 in fiscal 1982.

To assure greater professionalism and uniformity among OSHA managers, an OSHA Management Institute was established

as part of the Training Institute. By the end of the fiscal year, 250 OSHA managers had completed this special management training tailored to OSHA's mission, policies, and goals.

Other training, education and consultation programs deserve mention: (1) OSHA reached agreement with the Tribal Council of the Navajo Nation to provide onsite consultation to businesses operating within the Nation, thereby providing enhanced worker protection to 100,000 Native Americans. (2) Major initiatives to improve workplace safety and health for 2.8 million Federal workers were announced; they focus on Government interaction, enforcement, consultation, training, and evaluation. (3) OSHA endorsed 45 vocational safety and health training programs developed by The Center for Occupational Research and Development (CORD) for use in vocational and secondary schools in fiscal 1983. (4) OSHA promoted development of new employee training programs to prevent explosions in grain-handling facilities.

As OSHA planned its health and training courses it paid special attention to ways to reduce the injury rate among new and inexperienced workers who suffer injuries at a much greater rate than their numbers would indicate.

In August 1983, OSHA announced the award of \$3.02 million in job safety and health grants. Under its New Directions grants program, OSHA awarded grants to 43 labor, management, academic, business, and other nonprofit groups delivering a variety of job safety and health services. The grants were the latest annual awards to organizations that had received funding since 1980. Fifty-eight other groups — first awarded grants in 1978 — also participated in the New Directions programs. In all, OSHA provided \$6.8 million in 1983 to 104 grantees.

In addition to OSHA funds, the New Directions program received substantial support from the National Cancer Institute (NCI) and lesser amounts from the National Institute for Occupational Safety and Health (NIOSH), the Federal Emergency Management Agency (FEMA), and the National Institutes of Mental Health (NIMH).

Responsibility for direct program management of New Directions was shifted from the national office to the regional offices. This enabled OSHA staff to provide closer fiscal and program monitoring and established a higher level of accountability among grantees.

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Employment Standards Administration

While protecting the rights of workers, the Employment Standards Administration's (ESA) program offices initiated and pursued both legislative and administrative changes in 1983 to maintain spending reductions, to curb fraud and abuse in all programs, and to reduce the paperwork burden on employers.

As a result of several significant initiatives in the Office of Federal Contract Compliance Programs (OFCCP), case backlogs were eliminated which meant that allegations of discrimination were processed and resolved on a current basis. Although OFCCP continued to emphasize conciliation to achieve compliance, it applied formal enforcement actions when necessary.

OFCCP encouraged the establishment of liaison groups of industry, employer, and constituency representatives to promote greater affirmative action efforts by contractors. At the same time, OFCCP continued to develop a better understanding by all members of the public of the equal employment opportunity laws and ways in which to improve the compliance process.

The Wage and Hour Division was instrumental in obtaining enactment of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), an important law which provides necessary worker protections and yet eliminates the burdensome provisions that existed under the Farm Labor Contractor Registration Act (FLCRA). To strengthen its enforcement in this area, the Wage and Hour Division entered into formal Memoranda of Understanding with the Federal Bureau of Investigation and with the Immigration and Naturalization Service (INS) within the Department of Justice.

A number of criminal convictions were obtained involving involuntary servitude or peonage by persons who held migrant farmworkers in labor camps and forced them to work against their will. The division also assisted the INS in obtaining convictions of farm labor contractors who employed illegal aliens.

In other areas of enforcement, the Wage and Hour Division conducted 64,214 compliance actions under the Fair Labor Standards Act which disclosed \$114,010,000 owed by employers to 440,161 employees. The division obtained restoration of \$83,205,000 in back wages to 370,406 employees.

Under the enforcement of Government contracts laws — the Davis-Bacon Act, the Service Contract Act, the Contract Work

Hours and Safety Standards Act, and the Walsh-Healey Public Contracts Act — the division conducted 3,863 investigations and disclosed an all-time high of \$23,053,000 in back wages and unpaid overtime due 46,733 workers. During the year, employers agreed to pay \$16,129,000 in unpaid wages and overtime to 38,770 employees.

The Wage and Hour Division continued research studies of the effects of pesticide exposure on the health of youths under 16 years working in agriculture. Compliance investigations during the year disclosed 9,008 minors employed in violation of child labor provisions.

ESA's Office of Workers' Compensation Programs (OWCP) established an interagency task force to draft a legislative proposal to amend the Federal Employees' Compensation Act. The goals of this effort were (1) to create better incentives for employees to return to work after on-the-job injuries; (2) to curtail delays in claims determinations; (3) to eliminate inequities; and (4) to promote rehabilitation and reemployment of disabled beneficiaries. The draft legislation was submitted to Congress in July 1983.

In implementing the amendments to the Black Lung Act of 1981, the OWCP published final regulations which provided for stricter eligibility requirements for black lung claims, an increase in the excise tax on coal to maintain the benefit program for miners, and the transfer of responsibility for benefit payments in certain cases from responsible coal mine operators to the Black Lung Trust Fund.

Office of Federal Contract Compliance Programs

The Office of Federal Contract Compliance Programs conducted 4,303 compliance reviews of contractor facilities employing 3,085,791 workers. The agency placed major emphasis upon more rapid response to complaints alleging discriminatory treatment. OFCCP conducted 2,365 investigations of complaints and reduced the number of complaints on hand from 2,058 at the end of fiscal 1982 to 935 at the close of fiscal 1983.

In 425 agreements contractors committed a total of \$13,143,081 in financial outlays for training, future pay increases, backpay, and increased recruitment.

"Linkage" agreements to provide applicants for specific contractor job openings were reached between 1,085 employers and training service agents or other recruitment or referral sources.

OFCCP preferred a more positive, nonconfrontational approach in its mission, emphasizing conciliation to achieve com-

pliance and providing technical assistance to employers as they met their contractual obligations. In fiscal year 1983, technical assistance was given to 5,358 contractors outside of the compliance review process. Assistance included helping contractors to arrange internal or external training and locating recruitment and referral sources.

During fiscal 1983, OFCCP continued to encourage the establishment of liaison groups of industry, employer, and constituency representatives. Significant progress was made in forming liaison groups with a broad spectrum of parties interested in the compliance process, namely employers, women's organizations, apprenticeship and training groups, handicapped persons, representatives of specific industries or worker skills, academics and State agencies, as well as a cross section of these interest groups by geographical area. The groups were designed to promote greater affirmative action efforts by contractors and a better understanding of the equal opportunity laws by all members of the public. These groups explored general compliance problems and solutions in a cooperative setting. They contributed valuable input to OFCCP on ways to improve the compliance process and to address aspects of affirmative action unique to their employment situations or industries.

OFCCP, in turn, provided advice, specific technical assistance, and an exchange of information. By the end of fiscal 1983, 188 liaison groups had been formed.

OFCCP undertook several significant initiatives that resulted in greater program outputs. Reformed management systems and procedures were critical to the effective functioning of the program:

1. *A Nonconstruction Contractor Selection System* was designed to select contractors for review based upon such standards as previous EEO performance as determined by recent EEO profiles and historical trends, recency and frequency of past reviews, prospects for employment growth, and other criteria.
2. *A Case Management System* was designed to improve field performance by ensuring the timely completion of compliance actions and more efficient use of staff resources. Tight controls and a monitoring system to track the processing of cases/reviews to completion resulted in more timely completed compliance actions and a reduction in the number of hours required to conduct compliance actions.
3. *Training Programs* were designed to enhance the professional skills of compliance officers and to assist them in developing the investigatory skills necessary to discharge

their responsibilities in a fair, objective manner. To this end, OFCCP developed and delivered to 403 staff members a series of courses that addressed the needs of investigators at all experience levels, from "new hire" through senior investigators. The sequence of courses was the following: (a) Introduction to Contract Compliance, (b) Desk Audit Skills, (c) Data Analysis and Display Skills, (d) Veterans and Handicapped Training, (e) Interview Skills, (f) Negotiating Skills, (g) Construction, and (h) Regulatory Changes.

4. *The Complaint Intake System* was designed to reduce the time needed to determine OFCCP jurisdiction over a complaint; reduce the number of complaints erroneously accepted; and reduce the number of nonmeritorious complaints requiring OFCCP investigation. To permit quicker jurisdictional determination, OFCCP revised its complaint form to request more relevant information in conjunction with increased emphasis on the intake interview with complainants. To reduce complaints erroneously accepted, OFCCP issued clearer standards for screening complaints. To permit an early effort at resolution through contractor internal complaint procedures and to reduce complaints requiring OFCCP investigations, the agency provided the contractor with a copy of the complaint immediately upon establishment of jurisdiction.

Other management initiatives include the physical and administrative consolidation of some field offices; the reorganization of the OFCCP national office; elimination of complaint case backlogs, resulting in the processing and resolution of allegations of discrimination on a current basis; and case quality assurance based on comprehensive and thorough investigative content with consistent application of regulations and procedures.

Minimum Wage and Overtime Standards

Timely response to the 44,869 complaints received under the Fair Labor Standards Act (FLSA) during fiscal 1983 was the cornerstone of the Wage and Hour Division's FLSA enforcement strategy. The Division conducted 64,214 compliance actions under FLSA, of which 43,313 were initiated as a result of complaints from workers and concerned citizens. The inventory of complaints increased from 15,756 to 19,089.

The FLSA enforcement program disclosed \$40.2 million due 218,409 workers as a result of minimum wage violations, and \$73.9

million due 267,730 employees as a result of overtime violations. Employers agreed to pay \$26.9 million in unpaid minimum wages to 172,698 workers and \$56.4 million to 232,272 employees due overtime pay. Employers agreed to restore a total of \$83.3 million in FLSA back wages in fiscal 1983.

The difference between the amount of back wages found due employees and the amount that employers agreed to pay reflects, for the most part, sums involved in pending litigation and the refusal of certain employers to pay back wages in cases which the department deemed unsuitable for litigation. FLSA permits individuals to bring private suits to collect back wages, liquidated damages, attorney's fees, and court costs. The Department's enforcement statistics do not include the back wage amounts recovered in such private suits.

A vital component of FLSA enforcement is the Special Targeted Enforcement Program (STEP) which is aimed at discouraging employers from employing illegal aliens at unlawful wages. Under this program, the Wage and Hour Division conducts FLSA investigations in industries and localities where illegal aliens have traditionally been found to be employed. The purpose is to reduce the incentive for hiring these workers who tend to accept employment at less than the minimum wage and/or without proper overtime compensation. In fiscal 1983, 18,682 STEP investigations were conducted.

Child Labor Standards

The Wage and Hour Division found 9,008 minors employed in violation of the child labor provisions of FLSA during fiscal 1983.

The division assessed more than \$830,000 in child labor civil money penalties against 567 employers who were found to be illegally employing 5,050 minors. One hundred and thirty-one exceptions were filed with the Wage and Hour Administration contending that penalties should not have been assessed and requesting a hearing before an administrative law judge.

Research studies continued on the effects of pesticide exposure on the health of youths under 16 years working in agriculture. The studies are conducted under an Interagency Agreement between the Department of Labor and the Environmental Protection Agency. Of special concern was development of pesticide standards necessary in order for 10- and 11-year-old hand harvesters of short season crops to be employed under a waiver provision enacted in the FLSA Amendments of 1977.

Analysis of comments from interested parties on a proposed amendment to Child Labor Regulation 3, which sets employment

standards for 14- and 15-year-old minors, was completed and a new proposed revision will appear in the *Federal Register*.

The development of information concerning industries involved in Hazardous Occupations Order #10, which deals with slaughtering, meat-packing, meat-processing, and rendering occupations, and the retail sale of meat products, continued throughout the year. A proposal to amend this order will be published in the *Federal Register*.

Special Minimum Wages

To prevent the curtailment of opportunities for employment, the Fair Labor Standards Act authorizes the Secretary to provide for the employment of certain categories of workers at special minimum wages below the statutory minimum wage. These workers include, under certain conditions, learners, apprentices, messengers, handicapped workers, and full-time students when employed in retail or service establishments, agriculture, or institutions of higher education. Authorization is granted by certificate.

The division issued 42,162 certificates during fiscal 1983 authorizing the employment of approximately 427,212 workers at less than the minimum wage. Compared with figures from fiscal 1982, these figures indicate declines of 3 and 1 percent, respectively. Full-time students and handicapped workers in sheltered workshops accounted for 56 and 40 percent of the positions authorized, respectively.

The division analyzed the comments received as a result of a proposal to amend the full-time student regulations to allow the administrator of the division to designate the effective period of certificates authorizing the employment of full-time students. Under the current regulations, certificates may not be issued with effective periods longer than 1 year. A new proposal will be published in the *Federal Register* following the analysis of the comments.

The Secretary's Advisory Committee on Sheltered Workshops met in October 1982 and May 1983 to consider, as well as other matters, the need for revising the regulations governing the authorization of special lower minimum wages for handicapped workers employed by sheltered workshops. The committee provided advice and recommendations to the Secretary on the administration and enforcement of the Fair Labor Standards Act, the Public Contracts Act, and the Service Contract Act as these laws applied to the employment of handicapped workers by sheltered workshops and hospitals and institutions.

Industrial Homework

In conjunction with the removal of the restrictions on homework in the knitted outerwear industry in 1981, the Department undertook a concerted compliance effort in homework to determine whether further changes in the regulations governing the restrictions on homework were warranted.

The Secretary's action removing the restrictions in the knitted outerwear industry was challenged in the U.S. District Court for the District of Columbia (Civil Action No. 81-2606) by the International Ladies' Garment Workers' Union and others. The District Court upheld the Secretary's action. An appeal of that action was heard on September 12, 1983.

Migrant and Seasonal Agricultural Worker Protection Act

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) replaced the Farm Labor Contractor Registration Act (FLCRA) effective April 14, 1983. This Administration bill was developed as the result of lengthy discussions with agricultural employer and farm worker representatives.

MSPA provides a number of important worker protections, including vehicle safety, housing safety and health requirements, disclosure of wages, hours and working conditions; maintenance of necessary records; and a provision to provide workers with itemized information concerning pay and withholding. The act distinguishes between the traditional crewleader and the fixed-situs agricultural employer, thereby eliminating the burdensome provisions that existed under FLCRA which had required some agricultural employers to register as crewleaders with the Department of Labor.

The Wage and Hour Division conducted 4,201 investigations under FLCRA and MSPA this fiscal year. Violations were found in 3,011 of these investigations. Civil money penalties in the amount of \$872,000 were assessed against violators. Collections on penalty assessments amounted to over \$331,000.

Investigations that uncovered evidence of possible criminal violation of other statutes, including the Civil Rights Act, continued to be referred to the Department of Justice. This cooperation—continuing under MSPA—resulted in three criminal convictions involving involuntary servitude or peonage by persons who held migrant farmworkers in labor camps and forced them to work against their will.

The MSPA, as did FLCRA, prohibited a farm labor contractor from knowingly employing illegal aliens. Cooperation between

the Immigration and Naturalization Service and the Wage and Hour Division served to deter the use of these workers in agricultural employment. In fiscal 1983, 130 farm labor contractors were cited for employing a total of 1,072 illegal alien workers.

The National Farm Labor Coordinated Enforcement Committee and regional coordination committees continued their functions in accordance with Federal regulations established under the settlement agreement in *NAACP v. Marshall*. Under this agreement, the regional and national offices of the Employment Standards Administration, the Employment and Training Administration, and the Occupational Safety and Health Administration work to coordinate programs and services that have impact on migrant and seasonal agricultural workers.

Prevailing Wage Laws

Government contract enforcement concentrated on complaints alleging violations of the various laws that provide labor standards for employees performing Government contract work. During fiscal 1983, 3,845 investigations were conducted under the Davis-Bacon and Related Acts, the Service Contract Act, the Contract Work Hours and Safety Standards Act, and the Walsh-Healey Public Contracts Act. Back wages found due 46,536 workers under the provisions of these laws totaled a new all-time high of \$23 million. Employers agreed to pay \$16 million of these back wage amounts to 38,567 workers. Additional monies were to be restored upon completion of an administrative hearing or litigation action.

Pursuant to the Davis-Bacon and Related Acts, 13,584 prevailing wage determinations were issued during the fiscal year. Of this total, 1,297 were general determinations published in the *Federal Register* which apply to many construction contracts in a given geographic area, and 12,287 were issued for specific construction projects.

Various alternatives for improving the collection of wage data used in making Davis-Bacon wage determinations continued to be explored.

In an important victory for the Department and the Administration's regulatory reform efforts, the U.S. Court of Appeals for the District of Columbia Circuit, on July 5, 1983, largely reversed a District Court ruling. That ruling had enjoined certain major provisions of the Department's May 1982 revised Davis-Bacon regulations in a suit filed by the Building and Construction Trades Department AFL-CIO, and a number of individual unions. While the enjoined provisions had been deferred pending the conclusion of all

appeals in the matter, those portions of the new rules not at issue in the suit, as well as the new regulation redefining the "prevailing wage" were republished on April 29, 1983 and took effect on June 28, 1983. The former "30 percent rule," on which a preliminary injunction had been lifted, was eliminated. These newly adopted rules were expected to reduce Government construction costs by an estimated \$120 million annually.

The Wage-Hour Division issued 4,725 determinations of prevailing wages and fringe benefits for a wide variety of job classifications under the Service Contract Act. These job determinations apply to 36,517 contracts.

Federal Employees' Compensation

In fiscal 1983, the Division of Federal Employees' Compensation (DFEC) undertook a comprehensive review of program needs, culminating in a proposal to significantly amend the Federal Employees' Compensation Act (FECA). This would accomplish major improvements in the administration of debt collection, identification of abuses of the program, management of accounts, case management, and medical payments. New accountability standards were applied in reviews of the 15 field offices. Cooperation with other Federal agencies continued with the goals of reducing costs, processing claims more efficiently, and training agency personnel to give correct information to employees and to the Office of Workers' Compensation Programs.

A proposal to amend the FECA was submitted to Congress in July 1983. Its adoption would create better incentives for employees to return to work following on-the-job injuries, address delays in claims determination, eliminate inequities in compensation entitlement, and promote the rehabilitation and reemployment of disabled beneficiaries.

Despite the pressures of increased costs as a result of Federal employee pay raises and escalating medical costs, the cost control efforts continued to keep the total benefit payout under \$1 billion. The total FEC benefit fund payout for the 1983 chargeback fiscal year (July 1, 1982, to June 30, 1983) was \$916,628,000.

The 15 FEC district offices were reviewed in fiscal 83 under a completely revised accountability process emphasizing an evaluation of problem solving and use of resources by district office management. The new flexibility of the review process allowed in-depth evaluation of areas identified for special attention. A broad evaluation was made of all aspects of district office operations, taken from both MIS and other ADP sources and from on-site inspection. The resulting reports provided a valuable planning tool

for local management and identified needed program improvements at the national level.

In accordance with GAO and Treasury guidelines, DFEC published extensive procedures to improve its administration of accounts, to ensure that collections from settlements against responsible third parties were pursued and reported. Guidance was also provided for reviewing accounts to determine the cost effectiveness of further collection action, for closing uncollectible accounts, and for identifying debts that could be recovered through administrative and salary offset and compensation benefit offset. An agreement with slight modifications was continued with the Postal Service to identify and pursue liability in minor injuries to mail carriers.

The medical bill payment system used to pay claims submitted by covered Federal employees and their physicians was revised to provide greater security and accountability, and to prepare for the anticipated adoption of a medical fee schedule. Under this revised system, DFEC is able to capture information about individual medical procedures performed, using the AMA's Current Procedural Terminology Code. Medical payments are restricted to providers whose names and addresses have been verified, and who have been entered, by Employer Identification Number, into its Provider Index. A screening program, giving computerized access to this Index and to information about the claimant, is used to identify bills submitted by unverified or unlicensed providers, bills for cases not in payable status, and bills submitted for reimbursement to unverified addresses. These are routed for authorization or returned without payment.

Medical providers suspended or excluded from Medicare participation, and providers against whom licensing actions have been taken by their State medical boards, are identified for each region through national directives, and are flagged for attention in the automated payment system. DFEC is proposing regulations to exclude providers from the Federal Employees' Compensation Program for fraud against Medicare or other benefit programs, and for documented abuses such as overcharging and overtreating.

Computer matches were used to identify possible abuses of the program. A match of FECA benefit rolls against the rolls of Civil Service annuitants identified persons receiving prohibited dual benefits. FECA total disability rolls were also matched with State unemployment insurance records in Pennsylvania and Missouri, and benefit payment records in New York, to identify recipients with unreported earnings. The State of Ohio will participate in a similar match.

Over 100 of DFEC's case development letters were placed in an automated correspondence program linked to computer files

of case information, considerably reducing clerical workloads and printing and warehousing costs, and making texts more flexible and usable.

The Federal Employees' Compensation Act provides for a reduction of benefits to a partially disabled employee, based on actual earnings in a job suitable to the degree of disability, or on a documented earning capacity. Rehabilitation with actual placement in a job, whether in the private or public sector, is greatly to the advantage of the disabled employee, as well as cost effective for the program. Based on information gleaned from the Low Back/Early Medical Referral Project undertaken with the U.S. Postal Service in four district offices, and from periodic roll studies done in the last 3 years, DFEC has reevaluated its procedures for identifying and managing traumatic injury cases which may result in permanent or long-term disability. Techniques for selecting those cases that would profit from early intervention, obtaining specialist examinations where needed, and providing counseling and reemployment services for employees unable to return to their original positions have been disseminated to regional management and will be implemented programwide early in fiscal 1984.

An Interagency Task Force was formed to address recommendations made by the Office of Inspector General to the President's Council for Efficiency and Integrity to improve agency administration of claims. The Task Force assisted in drafting the legislative proposal and commented on regulatory needs for the program. It produced recommendations to OMB and OPM to encourage staffing of compensation specialist jobs in agencies, to improve claims oversight, and to control costs.

Under an agreement with DFEC, TVA was piloting a project whereby TVA processed and paid bills on injury claims when the employee had lost no time from work, saving OWCP the administrative cost associated with establishing a claim file. Bills were paid faster because they were paid directly by the agency without forwarding to OWCP. Lost time injuries were still handled by OWCP.

Training of examiners was an area of fruitful concentration of resources in fiscal 1983. With the assistance of ESA training, a module on obtaining and evaluating medical evidence was designed for the Advanced Claims Examiner Training Course and delivered in sessions in New York and San Francisco. When examiner difficulties in developing and writing statements of accepted facts were identified as a national problem through accountability reviews, a new 2-day course was developed and delivered to 75 supervisory claims examiners, who in turn are training examiners in each district office. The Basic Claims Examiner Course was

given to 55 examiners during the year, and the advanced course to 63.

The Department of the Army sponsored compensation training by OWCP personnel for 134 personnel specialists from all of its major commands. DFEC delivered a training module to 390 postal injury compensation specialists, in 30 sessions of the 2-week course given at the Postal Service Management Academy. DFEC also participated in the OPM employee benefits course and took part in five quarterly sessions. In fiscal 1984, training will be delivered across the country to 10,000 first-line supervisors of the U.S. Army Materiel Development and Readiness Command (DARCOM).

Black Lung

On May 31, 1983, the final rules were published implementing changes to the Black Lung Benefits Act as a result of enactment of the Black Lung Benefits Revenue Act of 1981 and the Black Lung Benefits Amendments of 1981. Some of the changes the amendments provided were stricter eligibility requirements, an increase in the excise tax on coal, and the transfer of payment in certain cases from responsible mine operators to the Trust Fund.

As a result of the legislative changes, the percentage of claims found eligible for benefits was reduced. Of the division's 13,398 initial findings issued under the 1981 amendments, the approval rate for those claims was only 4.2 percent.

A new automated claim information and benefit payment system became operational in fiscal 1983. With the increased cost of medical care and a greater volume of medical bills being received, bill processing had become one of the division's major efforts, having doubled since the previous fiscal year.

During fiscal 1983, the division made significant reimbursements to the United Mine Workers' Health and Retirement Funds for black lung-related medical expenses since the Trust Fund is the primary payor. The division expects additional medical reimbursements to other third parties in fiscal years 1984 and 1985. The task of preparing cases for a hearing at the Office of Administrative Law Judges (OALJ) was transferred out of the national office into the district offices. The division prepared 7,131 claims for a formal hearing and forwarded them to the OALJ.

The program's workload included the following cases: 9,454 new claim filings; 4,701 claim refilings; 7,000 cases pending decisions; 5,643 cases that the OALJ returned to the division; 2,862 informal conferences held; 113,000 claims for which the Trust Fund is paying Section 11 Medical Benefits Only; 92,000 Trust Fund monthly benefit claims in pay status; and 8,135 cases in which

responsible mine operators pay monthly benefits and medical benefits only.

The division recovered over \$20 million from responsible mine operators, insurance carriers, beneficiaries, and medical providers as a result of debt collection activities. Newly established debt collection targets were assigned throughout the division.

Approximately \$632 million in benefits were paid to coal miners, surviving dependents, and medical providers. Also included in this figure were reimbursements to responsible mine operators under the 1981 amendments, half of which were paid in fiscal 1983. Total Trust Fund obligations for fiscal 1983 amounted to \$860 million. Income from the coal tax, repayable advances from the General Fund, and collections from responsible mine operators totalled approximately \$493 million, \$358 million, and \$9 million, respectively. At the end of the fiscal year, the outstanding Trust Fund debt was approximately \$2.1 billion.

Longshore and Harbor Workers' Compensation

During fiscal 1983, the Division of Longshore and Harbor Workers' Compensation (DLHWC) made steady progress in providing more timely service under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. Approximately 63 percent of the informal conferences, which were requested for resolving disputed matters, were completed within 45 days of receipt of the requests. This represented a 6 percent improvement in the timely processing of those cases over performance in fiscal 1982. A total of over 7,500 conferences were held by district offices of the division. The division's district offices also reduced their inventories of cases awaiting action by 20 percent during fiscal 1983.

An accelerated accountability review program was carried out during the fiscal year, wherein 70 percent of the district offices came under national office review. Uniformity in application of program procedures, as well as the quality and timeliness of case actions, were stressed.

Internal operating improvements were introduced during fiscal 1983 to improve program efficiency. The division's district offices converted from a traditional file cabinet storage system to an open shelving TAB system. This system was designed to reduce filing errors and aid in case record retrieval. The system also provided for more efficient use of available space.

Progress was made during the fiscal year toward automation in the district offices. Functional requirements for an automated data processing case management and information system were

defined and operational implementation in the district offices can begin the latter part of fiscal 1984. The system will provide automated case review, case tracking, and word processing capability. It will result in more timely case reviews and responses to inquiries, as well as more efficient work flow in the district offices.

Vocational Rehabilitation

The Division of Vocational Rehabilitation continued to increase the quality, quantity, and timeliness of vocational rehabilitation services during fiscal 1983, thereby reducing human loss and compensation costs.

During the year, 842 injured Federal workers under the Federal Employees' Compensation Act were rehabilitated, saving more than \$11,000 per worker in compensation costs. Total savings for the year were \$9.3 million in compensation costs.

Also in fiscal 1983, 254 injured workers in the private sector were rehabilitated under the Longshoremen's and Harbor Workers' Compensation Act, for savings of more than \$9,000 per worker in compensation costs. Total compensation costs saved for the year were \$2.3 million.

Office of State Liaison and Legislative Analysis

The Office of State Liaison and Legislative Analysis was established in 1982 to provide assistance to the States and to coordinate Federal-State activities in the areas of workers' compensation, labor standards, and equal employment opportunity. The office also serves as a link between the major ESA programs and related State programs, and facilitates cooperation in legislative and regulatory matters. The office contains three divisions: the Division of Legislative Analysis, the Division of State Employment Standards Programs, and the Division of State Workers' Compensation Programs.

The Division of Legislative Analysis developed testimony and background information for ESA officials who appeared at hearings before committees of the Senate and House of Representatives. It developed papers used in legislative policymaking and regulatory materials required under E.O. 12291. The division was instrumental in efforts leading to the enactment on January 14, 1983 of the Migrant and Seasonal Agricultural Worker Protection Act. It also played an important role in developing an Administration bill to reform the Federal Employees' Compensation Act. The bill was transmitted to the Congress on July 27, 1983. The division also prepared explanatory materials for use in briefing Congressional staff and liaison staff of Federal agencies.

The Division of State Employment Standards Programs provided ESA with expertise on State labor standards laws and programs, and on issues that affect or are affected by all ESA programs, except workers' compensation. In the promotion of improved coordination between Federal and State programs in similar fields, considerable information was developed on State employment standards relating to child labor, youth minimum wages, and industrial homework. The division is compiling information on State affirmative action requirements for employment of handicapped persons.

The division provided technical advisory assistance and information on numerous labor standards subjects in response to over 400 requests from State labor departments, management organizations, multi-State employers, organized labor, other Federal agencies, the Congress, and others. Throughout the year, the division maintained active working relationships with State governmental labor officials and their organizations. It analyzed some 950 new State labor laws and published summaries of approximately 325 of these.

The Division of State Workers' Compensation Programs provided State workers' compensation agencies with onsite technical assistance to help them improve their information, rehabilitation, and administrative systems. It worked closely with State legislatures and advisory committees in preparing and evaluating proposed legislation.

During fiscal 1983, the division provided analyses for 190 amendments to State workers' compensation laws. An outcome of this effort was the publication of a set of comparative tables on significant provisions in these laws entitled *State Workers' Compensation Laws*.

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Mine Safety and Health Administration

In fiscal year 1983, the Mine Safety and Health Administration (MSHA) continued working to reduce on-the-job accidents and occupational illnesses among the Nation's miners. To achieve these goals, the agency used a combination of methods including inspection, technical and training assistance, conferences, and other voluntary activities. Central to its efforts was the principle that mine safety and health progress requires constant dialogue and teamwork among management, labor, other sectors of the mining community, and government.

The industry's safety record was improving in fiscal 1983. There were 131 mining fatalities during this time, compared with 237 in fiscal 1982. Rates of fatal and nonfatal injuries were also on the decline. However, a coal mine explosion, on June 21, 1983, killed seven miners, drawing national attention to mine safety issues. MSHA began intensive investigation into the cause of the explosion. At the end of the fiscal year, a report was in preparation.

Fiscal 1983 was MSHA's first complete fiscal year under a major reorganization that took place in May 1982. In this administrative change, inspectors' supervisors were given responsibility for holding conferences, at either management's or labor's request, to discuss citations written during an inspection. In addition, activities related to miner training were transferred to MSHA's district organizations, whose main focus previously had been inspections. Revised regulations on civil penalties for violations were coordinated with the reorganization. In fiscal 1983, the new conference and penalty procedures were functioning smoothly, and training specialists became active in providing consultative assistance to mines in their districts.

During the year, MSHA pursued several programs designed to improve miners' safety and health through cooperation among management, labor, others in the mining community, and State agencies.

MSHA's Non-Fatal Days Lost (NFDL) program for coal mines and the Program in Accident Reduction (PAR) for metal and nonmetal mines provided extra consultative assistance, involving both management and labor, to selected mines with accident rates higher than the national average. Mines in these programs achieved substantial improvement in their accident records.

At the operator's request, metal and nonmetal mines also received Compliance Assistance Visits (CAV's), on which MSHA

inspectors identified potential violations before an operation was opened or reopened, without penalties resulting. After such visits, most violations were corrected before the mine's next regular inspection.

MSHA vigorously promoted the voluntary Holmes Safety Association, whose meetings can bring management, labor, inspectors, and others together to discuss safety on a regular basis. Membership in the association grew to more than 295,000.

Special conferences were another means used to involve management, labor, and government in identifying and solving problems in mine safety and health. The district organizations held joint mine health and safety conferences in 10 locations around the country from November 1982 through April 1983, and many other regional meetings were held by subdistrict and field offices. The Second National Joint Mine Safety and Health Conference was held in June 1983 and a second round of regional conferences was planned for fiscal 1984.

In November 1982, a first-time conference with MSHA and State officials responsible for mine safety was held to promote cooperative mine safety efforts.

Early and effective public participation was encouraged in several regulatory review projects that MSHA had under way during the fiscal year, with the goal of updating and clarifying current rules and making them more effective. Numerous drafts of revised regulations were offered for public comment before the formal proposal stage. These included drafts covering seven priority sections of the regulations on metal and nonmetal mine safety and health; three sections of the underground coal mine safety standards; and an alternate procedure for approval of certain mining equipment.

Proposed "MSHA reform" legislation to amend the Federal Mine Safety and Health Act of 1977 was introduced in the Senate by Senator Don Nickles (R-Okla.) on April 28, 1983, and in the House of Representatives by Congressman John Erlenborn (R-Ill.) on June 16, 1983. The two bills contain similar provisions. They would delete the requirement for two annual inspections at each surface mine, allowing MSHA to set priorities according to need; abolish civil penalties for nonserious violations that are promptly corrected; increase flexibility in MSHA's training requirements; and allow MSHA inspectors to make CAV-type visits to operating mines.

Legislative hearings on the Senate bill (S. 1173) were held July 26, 1983, before the Senate Subcommittee on Labor. Ford B. Ford, Assistant Secretary of Labor for Mine Safety and Health, testified in favor of the bill, stating that the amendments to MSHA's

law would give the agency greater flexibility to direct resources where they can do the most good, while promoting a cooperative approach to improving miners' safety and health.

Coal Mine Safety and Health

During fiscal 1983, there were 1,854 underground coal mines, 2,014 surface coal mines, and 978 other surface coal mine facilities active and producing under MSHA's jurisdiction. Coal mine inspectors, technical specialists, education and training specialists, and supervisors operated from 10 district offices, 18 subdistrict offices and 68 field offices. The coal mine safety and health workforce was strengthened with the training of more than 200 new inspectors at the National Mine Health and Safety Academy. The workforce numbered 1,810 at the end of fiscal 1983, compared with 1,897 at the end of fiscal 1982 and 1,698 in fiscal 1981.

MSHA conducted 74,426 coal mine inspections and investigations during fiscal 1983, of which 52,279 were at underground mines, 14,033 at surface mines, and 8,114 at other surface facilities. MSHA inspectors issued 104,418 citations and orders to coal mine operators and independent contractors for violations of safety and health regulations. Supervisory officials held 1,653 health and safety conferences, at the request of mine operators or labor representatives, to discuss inspectors' findings.

Coal mining fatalities decreased dramatically in fiscal 1983, numbering 76, down from 160 in fiscal 1982 and 133 in fiscal 1981. Rates of fatalities and injuries also were on the decrease: in the first 6 months of calendar 1983, the coal mine fatality rate was 0.04 per 200,000 employee-hours, and the all-injury rate was 6.77, down from 0.06 and 8.47, respectively, in the first half of calendar 1982.

However, a methane explosion, on June 21, 1983, killing seven miners at the McClure Mine, McClure, W.Va., highlighted the need for continued improvement in coal mine safety. At the fiscal year's end, MSHA's investigation into the cause of this explosion was continuing.

Of the 76 coal mining fatalities in fiscal 1983, 25 were caused by falls of mine roof, historically the leading cause of fatal coal mine accidents. MSHA adopted a special emphasis program to address the problem of roof falls. This program includes additional training for MSHA's roof control specialists and additional emphasis on roof control problems during inspections and investigations.

Another special emphasis program initiated in fiscal 1983 focuses on individual mechanized mining units and other areas at

coal mines where the respirable dust standard has repeatedly been violated. Each district developed programs to reduce repeat violations of the standards for respirable coal mine dust, a lung disease hazard to miners. Compared with previous years, compliance improved significantly.

The NFDL program, begun in fiscal 1982, included 159 mines in fiscal 1983. Under this program, each district selects for special attention mines with a higher-than-average rate of lost time injuries. These mines are provided with extra consultative assistance in identifying and eliminating the root causes of accidents at the operation. Many program mines achieved declines in their accident record in fiscal 1983. MSHA also conducted an evaluation of the new program nationally in order to increase its effectiveness.

Coal mine operators filed 149 petitions for modification of safety standards during fiscal 1983. Such modifications are granted when evidence shows that applying the standard in a particular location would decrease safety, or that equal safety could be achieved by another means.

Coal mine personnel filed 173 complaints of discrimination with MSHA during the year. MSHA investigates cases of possible safety- or health-related discrimination, which is prohibited under the law. MSHA also opened 56 investigations into possible knowing or willful violations.

During fiscal 1983, MSHA was engaged in reviewing its regulations on underground coal mine safety. After the initial period for public comments ended, Coal Mine Safety and Health personnel served on committees preparing draft revisions of various sections.

To upgrade skills and bring new technology into use, a 16-week industrial hygiene course was developed for MSHA health specialists. In addition, a dust control course for inspection personnel and others in the mining community was developed.

Using the computerized Management Information System, MSHA designed a manpower planning model to allow efficient allocation of personnel based on industry's needs and regulatory requirements.

Metal and Nonmetal Mine Safety and Health

In fiscal 1983, MSHA's Metal and Nonmetal Mine Safety and Health activity operated from 6 district offices, 12 subdistrict offices, and 53 field offices. Staffing levels had been reduced in fiscal 1982 because budget legislation exempted certain nonmetal mining operations from MSHA jurisdiction. With jurisdiction restored in July 1982, the Metal/Nonmetal activity increased its workforce in fiscal 1983 from about 550 to about 590 employees.

During fiscal 1983, 12,123 regular inspections were made at approximately 728 underground metal, nonmetal and stone mines, and about 12,621 surface mines, stone quarries, and sand and gravel operations. Citations and orders totaling 14,058 were issued during regular inspections. To check for correction of violations, 3,364 inspections were made. Other inspections took place at gassy mines, during shaft sinking, during operation of hoisting equipment, and at electrical installations.

At the request of management or labor, 301 health and safety conferences with supervisory personnel were held following regular inspections.

District training specialists made 709 visits to metal and nonmetal mines during the fiscal year.

Special investigations were initiated of 70 complaints of safety- and health-related discrimination, and of 39 possible knowing and willful violations.

Metal and nonmetal mining fatalities declined from 77 in fiscal 1982 to 55 in fiscal 1983, the lowest number in any fiscal year. Injury rates for metal and nonmetal mining were at low levels compared with past years; the fatality rate was .04 per 200,000 employee-hours from January to June 1983, while the all-injury rate declined to 4.24. Because of the change in MSHA's jurisdiction, the rate figures are not comparable with those for the same period of fiscal 1982.

Two special emphasis programs continued during the fiscal year. PAR included 60 operations with injury rates significantly higher than the national average. With extra consultative assistance on safety programs, job safety analysis, accident prevention and safety awareness involving both management and labor, PAR operations achieved a 37-percent reduction in lost-workday injuries and a 24-percent reduction in the injury incidence rate during the fiscal year. In addition, 104 MSHA employees and 176 industry personnel were trained in the concepts of PAR at the National Mine Health and Safety Academy.

The CAV program, begun in fiscal 1980, also continued in fiscal 1983. Inspectors made 2,037 of these consultative visits to mines that were opening for the first time, resuming operations, opening new sections, or installing new equipment. On these visits, inspectors issued 11,741 nonpenalty notices of violation. Citations are not issued on CAV's, but during the next regular inspection, the inspector checks to make sure any violations noted on the CAV have been corrected. In the first quarter of fiscal 1983, many operations that had been exempted from MSHA jurisdiction received CAV's before being returned to the regular inspection program.

A new special emphasis program, patterned after the PAR program, was designed to address industrial health problems in metal and nonmetal mining. In fiscal 1983, a pilot program was begun at a silica flour plant, one of several such operations in which respirable dust has been a continuing problem. As of the fiscal year's end, the program was going well, and MSHA planned to expand it in fiscal 1984.

During fiscal 1983, Metal and Nonmetal personnel took part in drafting revisions to eight priority sections of the safety and health regulations for metal and nonmetal mines. Seven sections in draft form were distributed to the public for comment.

An inventory of mining chemicals, comprising more than a thousand Material Safety Data Sheets, was compiled for the use of inspectors and health specialists. It was used in developing air quality standards, in setting priorities for sampling manuals, and in determining the occurrence of chemicals at mines when alerts were issued by other agencies.

Also in fiscal 1983, the Metal and Nonmetal activity began a cyclic program of internal evaluations designed to assist managers and supervisors in accomplishing program goals. Evaluation teams audited the Western and Rocky Mountain Districts, evaluating the practices and procedures used in health, safety, special investigations, and administrative activities.

Assessments

The Office of Assessments assessed civil penalties for 111,834 violations during the fiscal year. The time lag between issuing a citation and assessing the penalty was greatly reduced.

Because the office reviewed all citations for completeness and consistency before issuing the civil penalty, proposed assessments were highly accurate. The office's review and comparison of specific citations during fiscal 1983 also established areas for special emphasis in training inspectors.

Mine operators requested a hearing with the Federal Mine Safety and Health Review Commission on 2,748 violations, or 2.4 percent of total violations.

MSHA continued to collect about 85 percent of civil penalties assessed. Towards the end of the year, a contract was awarded to commercial collection agency to assist with the collection of about \$5 million in past due civil penalties, dating back several years, and with current cases as they became past due. Cases of unsuccessful collection will continue to be referred to the Office of the Solicitor for enforcement in Federal court.

Standards, Regulations and Variances

The Office of Standards, Regulations and Variances, which coordinates MSHA's rulemaking, continued reviews of major groups of mine safety and health regulations. These reviews were intended to bring MSHA's regulations up to date, clarify standards where necessary, delete overlaps and duplications, eliminate needless burdens on industry, close gaps in miners' protection, reduce recordkeeping requirements, and eliminate incorporations by reference.

The reviews also were consistent with the objectives of Executive Order 12291, the Paperwork Reduction Act, and the Regulatory Flexibility Act. MSHA provided many opportunities for early and effective public participation in the rulemaking process.

MSHA continued its project to update standards covering wire ropes used to hoist miners or to hoist materials where personnel could be endangered. Many written comments were received on the proposed revisions, published Nov. 16, 1982, and MSHA held public hearings on the proposal in Denver, Colo., Phoenix, Ariz., Pittsburgh, Pa., and Birmingham, Ala. The final rule was scheduled for publication early in fiscal 1984.

On March 4, 1983, MSHA released a preproposal draft of regulations that would provide an alternate procedure for manufacturers to obtain MSHA approval of certain mining equipment. Under this procedure, applicants could certify that the MSHA-specified technical requirements for the product were met, and they or independent laboratories could do the required testing. MSHA held public conferences to discuss the draft on April 5, 1983, in Pittsburgh, Pa., and on April 12 in San Francisco, Calif. At the fiscal year's end MSHA was analyzing comments and developing a proposed rule.

MSHA continued work on its review of eight priority sections of the safety and health regulations for metal and nonmetal mining. Preproposal drafts of seven sections were made available to all interested parties for review and comment: Fire Prevention and Control (Dec. 28, 1982); Use of Equipment (Feb. 11, 1983); Ground Control (March 11, 1983); Loading, Hauling and Dumping (April 22, 1983); Electricity (May 20, 1983); Gassy Mines (June 10, 1983); and Air Quality (July 6, 1983). After the comment period on these drafts closed, MSHA committees began considering the comments and drafting proposed rules. A draft of the final section, Explosives, was expected to be released early in fiscal 1984.

In fiscal 1983, MSHA proceeded with the comprehensive review of underground coal mine safety standards begun in July

1982. Preproposal drafts on hoisting and transportation of persons and material, and on self-contained self-rescue devices, were made available July 1, 1983. MSHA held public conferences to discuss the drafts on Aug. 16 in Denver, Colo., and on Aug. 18 in Lexington, Ky. Draft standards on roof control were released Sept. 1, 1983; conferences on that draft were scheduled for early fiscal 1984.

On March 18, 1983, MSHA published an advance notice of proposed rulemaking, inviting public participation in the early stages of a review of miner training regulations to be coordinated with the ongoing reviews of health and safety standards for coal and for metal and nonmetal mines. In response to this notice, commentators from organizations that represent major segments of the mining community recommended postponing review of the training regulations until some of these other reviews were completed. To allow for a more thorough review by the commentators, MSHA decided to defer action on the training rules until further notice. Meanwhile, MSHA continued internal review of the training requirements in the context of the other review projects.

Technical Support

During fiscal 1983, MSHA's Directorate of Technical Support provided engineering and technical expertise, upon request, to other MSHA program areas and the mining industry. Investigations, laboratory testing and analyses, and other types of technical assistance were conducted to solve problems in mine ventilation, hazard identification, electrical systems, safe use of mine equipment, roof control, and other areas of mine safety and health.

Technical Support responded to nine mine emergencies involving fires, methane explosions, and blasting accidents. During the emergencies, Technical Support provided engineering, analytical, and logistical support to MSHA officials. Technical Support personnel also took part in MSHA's investigations into the cause of each emergency.

Technical Support processed 159,372 samples of respirable coal mine dust within one day of receipt; analyzed 19,828 other samples to determine compliance with mandatory standards, calibrated 4,594 noise and radiation sampling instruments for MSHA inspectors, and made 523 in-mine investigations at the request of the district organizations. Personnel also participated in reviews of MSHA regulations.

The directorate recommended approval by the districts of 206 plans for mine waste impoundments and devices for use in place of protective canopies on mining equipment. In addition, 258

blasting plans were approved under an agreement with the Interior Department's Office of Surface Mining and Reclamation.

The Approval and Certification Center completed 5,052 approval actions on equipment used in the mining industry. A new facility, which for the first time consolidates all aspects of the MSHA approval program in Triadelphia, W. Va., was dedicated July 11, 1983.

The Health and Safety Analysis Center processed 120,457 injury, illness, employment and production reports during the fiscal year. Quarterly reports on injury experience in the mines were published, providing information on accident trends for MSHA officials and the industry.

Educational Policy and Development

During fiscal 1983, MSHA's Office of Educational Policy and Development coordinated national policy on mine safety and health training, supervised the National Mine Health and Safety Academy, administered MSHA's State Grants program, and provided support for voluntary safety organizations.

As recovery of the mining industry continued, particular attention was paid to the retraining needs associated with the recall of miners. A program to encourage the use of structured on-the-job training was well received. Participation in voluntary safety organizations was also encouraged.

The MSHA-supported, voluntary Holmes Safety Association continued to expand in fiscal 1983. This organization provides an opportunity for management and labor to hold safety meetings, using safety materials provided by the association. With a membership of more than 295,000 in 46 States, the association's 50 councils and 2,831 chapters held more than 6,000 meetings in fiscal 1983, with a combined attendance of over 1,350,000.

The separate Joseph A. Holmes Safety Association issued 2,061 awards to individuals and mine operations for mine safety achievements.

A new volunteer program was initiated in fiscal 1983 to use the talents of retired miners and mining experts in activities such as mine rescue contests and training material development.

During the fiscal year, 39 States participated in MSHA's State Grants program, which provides funding for States to conduct mine safety activities including miner training. A total of \$5,087,111 was granted to States during fiscal 1983, and 85,982 miners were trained in State programs supported with MSHA funding.

In fiscal 1983, 12,736 people took part in programs at the National Mine Health and Safety Academy for some 42,000 student-days. Of these student-days, 62 percent comprised training of

MSHA employees and the remainder included training of industry, labor, State, and other personnel.

Programs on occupational safety and health, human relations, and communications were tailored for the specific needs of student groups. Academy staff conducted more than 7,000 hours of classroom and laboratory instruction at the Academy and many more hours of training in the field, at or near the users' facilities.

There were 372 new enrollments in the Academy's correspondence program, and 248 people completed programmed instruction books for credit.

The Academy completed two new programmed instruction books, three training guides, and two mine safety films. On-the-job training materials on 20 topics were developed for MSHA's coal mine training coordinators. The Academy distributed some 109,500 copies of mine health and safety materials during the year.

In addition, the Academy was host to two important conferences: MSHA's first meeting for State officials involved in mine safety programs, on Nov. 15-17, 1982, brought together 62 officials from 32 States to discuss ways to improve miners' safety and health through cooperation between States and with MSHA. On June 7-8, 1983, the Second National Joint Mine Health and Safety Conference was held, with more than 275 participants from management, labor, other sectors of the mining community and government.

Labor-Management Services Administration

In response to growing national interest in improved industrial productivity and less adversarial labor relations, the Labor-Management Services Administration (LMSA) continued its efforts to promote cooperative labor-management programs. The agency's Office of Labor-Management Relations Services published information and sponsored conferences to encourage and assist employers, employees, and unions to undertake joint programs to improve productivity and enhance the quality of working life.

Preventing the misuse of union funds by identifying and concentrating resources on cases most likely to involve major civil and criminal violations of the law continued to be one of the agency's top regulatory priorities. This strategy enabled LMSA to conduct more than 1,395 audits and embezzlement investigations during the year.

A new case tracking system designed for the Office of Pension and Welfare Benefit Programs (PWBP) strengthened the agency's capability to enforce the pension reform law. Eliminating unnecessary regulatory burdens under the Employee Retirement Income Security Act (ERISA) continued to be an important goal of the agency during the year.

Labor-Management Enforcement Programs

Auditing union financial records using a method which identifies and concentrates resources on cases most likely to involve major civil and criminal violations of the law enabled the Office of Labor-Management Standards Enforcement (LMSE) to continue its high number of audits and embezzlement investigations.

Using the Compliance Audit Program (CAP), LMSE completed 983 local union audits during the year, up from 739 audits in 1982 and conducted 395 embezzlement investigations.

LMSE also conducted 17 audits of international unions using a method similar to the CAP program. Seven audits were completed by the national office, one was still in progress when the year ended, and three were referred for further investigation. Six audits of international unions were completed by field offices with personnel support from the national office.

Criminal charges under the Labor-Management Reporting and Disclosure Act (LMRDA) were brought against 102 people, the largest number of prosecutions since passage of the Act. During the year, 68 people were convicted of LMRDA violations or agreed to pretrial diversions of their cases; 1 person was acquitted and criminal charges against 1 person were dismissed.

The agency instituted 34 civil actions under the LMRDA in Federal district courts during the year, including two suits to lift a union-imposed trusteeship, one suit to hold an election for a position previously filled through appointment, and two suits to install union officers. The other 29 suits were filed to set aside union officer elections, including one conducted by a national union, the National Association of Postal and Federal Employees.

LMSE completed 3,897 criminal and civil investigations during the year. Of these, 2,063 involved delinquent or deficient union financial reports and 175 involved union elections.

The LMRDA requires virtually all unions to file annual financial reports with the agency. There were 47,463 labor organizations with reports on file at the end of the fiscal year, down from the previous year's total of 49,547.

LMSE's Branch of Election Assistance (BEA) provided advice and technical assistance on election provisions of the LMRDA to 15 national and local unions and responded to 253 written, telephone, and walk-in inquiries from union officials. BEA provided pre-election assistance to seven national unions at their request, including the United Mine Workers and the National Maritime Union.

BEA also completed preparation of a 900-page supplement to the *Union Officer Elections and Trusteeships Case Digest*. The supplement contains summaries of 754 court and administrative cases under the election and trusteeship provisions of the LMRDA from 1978 through 1982. The supplement was published shortly after the fiscal year ended.

Several cases involving the coverage of labor organizations under the election provisions of the LMRDA were resolved during the year. Last year, a court ruled that the units of the National Education Association with members in the private sector were subject to LMRDA election requirements. This year, LMSE agreed to conduct a remedial election for the national union.

A suit was filed against Local 1000 of the American Federation of State, County, and Municipal Employees (AFSCME) in Albany, N.Y., over their election of officers. Known in New York as the Civil Service Employees Association, this union, with more than 225,000 members, organized contractor employees of the State and thereby became subject to the LMRDA.

Pension and Welfare Benefit Programs

Enforcement and deregulation of the Employee Retirement Income Security Act (ERISA) continued to be the primary focus of the Office of Pension and Welfare Benefit Programs (PWBP) in 1983.

Under its enforcement program, PWBP initiated a new case tracking system designed to provide better data on the results of field investigations, expanded the decentralized litigation program, established investigator/lawyer teams to handle pension cases involving corporate takeovers, and entered into a new agreement with the Internal Revenue Service to coordinate investigation by the two agencies.

PWBP achieved notable results in 1983 by resolving ERISA violations through voluntary compliance and litigation. The new case tracking system reported restoration of more than \$8 million in employee benefit plan assets and reversal of more than \$26 million in prohibited transactions through voluntary compliance. Litigation resulted in restoration of more than \$5 million in plan assets and reversal of more than \$11 million in prohibited transactions.

One of the most notable results in the litigation area was the court-ordered pretrial settlement with the Southern Nevada Culinary Workers and Bartenders Pension Trust which resulted in the payment of \$3.7 million to the plan. This is the largest single settlement under ERISA to date.

PWBP also entered into a consent decree with the Teamsters' Central States Pension Fund to recover \$6.5 million from the trustees of the pension, health, and welfare funds. The decree settles all outstanding claims against the former trustees and imposes safeguards over the assets of the funds. The consent decree is awaiting approval by the Federal district court.

Another settlement, with the Metal Industries Retirement and Profit Sharing Plans, resulted in a payment of \$1.8 million to the affected plans.

Litigation of ERISA cases on a decentralized basis was expanded to include the New York and Atlanta regions in 1983. The decentralized litigation project, which allows regional PWBP and Solicitor's Office staff to handle most ERISA cases, began in San Francisco in 1982.

In 1983, PWBP took vigorous steps to prevent the misuse of pension assets in corporate takeovers by establishing investigator/lawyer teams with special expertise in the takeover area and by filing a suit to prevent the use of pension plan assets in takeover attempts.

PWBP also signed an agreement with the IRS to coordinate investigations of employee benefit plans to prevent simultaneous

activities by both agencies. The compliance agreement establishes procedures for coordinating notification of investigations, referring information generated by investigations, coordinating cases under IRS appeal, and notifying each agency of proposed legal action.

In the area of deregulation, PWBP initiated several administrative proceedings intended to reduce regulatory burdens and simplify ERISA's requirements. A final rule was issued deferring the dates on which plan administrators must update plan information to participants and beneficiaries. Another final rule on supplemental payment plans makes it easier for employees to supplement the pension benefits of retirees and their beneficiaries.

A proposed regulation would provide an alternative streamlined method of furnishing updated summary plan descriptions to plan participants which could save plans more than \$215 million. PWBP also proposed a broad class exemption which, if granted, would provide significant deregulatory relief from various prohibited transaction provisions for employee benefit plans whose assets are managed by qualified professional plan assets managers.

PWBP granted a record 212 individual class exemptions from the prohibited transaction provisions of the law, thereby giving certain plans and employers more flexibility to engage in transactions otherwise prohibited by ERISA.

PWBP also issued 146 advisory opinions during the year to explain the application ERISA's requirements to specific situations and published a study profiling the growth of private pension plans.

Labor-Management Relations

The Office of Labor-Management Relations Services (LMRS) continued efforts to improve productivity and enhance the quality of working life.

LMRS staff planned and conducted several symposiums on cooperative labor-management programs including the Southeast Regional Symposium on Cooperative Labor-Management Programs. Cosponsored by the Institute of Industrial Relations at Georgia State University, the regional symposium held near Atlanta was attended by 47 leaders of labor, business, government, and academia throughout the southeast. The symposium focused on impediments to cooperative labor-management initiatives in the region and strategies to overcome them.

A Federal Sector Conference on Employee Participation and Cooperative Labor-Management Initiatives held in Washington in August was co-sponsored with the Department of the Air Force. It was attended by more than 400 people and provided them with the opportunity to exchange information and experiences on labor-management cooperation in the Federal government.

A conference at Airlie, Va., in September brought together experts from labor, business, and academia to examine five difficult issues associated with improving the work environment and the effectiveness of private sector cooperative initiatives.

LMRS participated in the growing number of activities associated with efforts to increase American productivity. The office participated in the White House Conference on Productivity by cosponsoring a teleconference on cooperation in the workplace. LMRS staff also developed an information packet on cooperative labor-management programs in response to a campaign of public services advertisements aired by the Broadcast Industry Council to Improve American Productivity.

LMRS published several reports during the year including *Labor-Management Cooperation: Recent Efforts and Results* which contains 28 articles by researchers and practitioners describing the kinds of problems employers and unions face with setting up cooperative programs and illustrating some of the strategies they have devised in seeking solutions. A *Resource Guide to Labor-Management Cooperation*, first published last year, was revised and updated to include more than 200 in-plant programs and listings for industry labor-management committees, area labor-management committees, and productivity and quality of worklife centers.

In the collective bargaining area, the Labor Department continued its policy of encouraging resolution of labor-management disputes with a minimum of direct participation. This policy was followed in negotiations involving the automobile, steel, aluminum, nonferrous metals, longshore, aerospace, and telephone industries.

LMRS provided legislative analysis on a wide variety of labor relations and related issues including the Labor-Management Racketeering Act, which, if enacted, would strengthen the provisions of the LMRDA and the ERISA which bar union and employee benefit plan officials convicted of certain crimes from holding office and increases the penalties for these violations of the law. The Secretary testified strongly in favor of this legislation.

Other matters receiving attention on the legislative front included proposals in the areas of employee protections, regulatory reform, amendments to labor relations laws and veterans' affairs. Regular and supplementary reports kept the Assistant Secretary and other Department officials apprised of legislative developments in these and other areas.

LMRS provided research support on the administration and enforcement of laws over which LMSA has jurisdiction. Staff continued to provide monthly reports on national union election procedures and schedules and completed a study comparing the regulation of internal union affairs in Australia and the United States.

Research staff also focused attention on cooperative labor-management activities, productivity, and technology change. It assisted the Under Secretary in preparing a paper on labor-management cooperation, developed an issues paper for a regional conference preceding the White House Conference on Productivity, presented a paper on productivity-related research in LMSA to a symposium sponsored by the Office of Naval Research, and prepared a background paper on worker participation in designing and planning new technology. LMRS is working with other agencies to establish an information clearinghouse on productivity within the Federal government.

LMRS staff also participated in departmental activities in international labor relations. Issue and position papers and other informational materials were prepared for meetings of the International Labor Organization (ILO) and the organization for Economic Cooperation and Development (OECD). An agency official was a government representative at the Metal Trades Committee meeting of the ILO in September. LMRS continued administering the labor relations sections of the cooperative agreement reached in 1979 with Israel's Ministry of Labor and Social Affairs. The office planned a training program for two Israeli officials on plant-level labor relations and provided assistance to a Department committee planning a symposium in Israel in 1984.

The Division of Employee Protections continued to administer legislatively mandated programs that provide protections to workers adversely affected by the expansion of the Redwood National Park or by federally financed mass transportation grants. These activities included certifying more than 1,200 agreements that were developed to protect the interests of employees affected by urban mass transportation grants made by the Department of Transportation under the Urban Mass Transportation Act of 1964.

The Department began a review of proposed revisions to LMSA's current guidelines for administering the employee protection provisions of Section 13(c) of the Urban Mass Transportation Act. The proposed new guidelines were originally developed by a joint task force from the Departments of Labor and Transportation. In August, the Department began consultations on the proposed revisions with interested labor organizations and management officials.

Proposed regulations to implement first-right-of-hire provisions of the Airline Deregulation Act were published just prior to the beginning of the fiscal year. Public comments on the regulations were analyzed and a final regulation was being prepared. Staff responded to substantial number of public and congressional inquiries regarding the program and informed carriers and airline employees of the Department's employee protection program.

Administration and Management

In cooperation with Local 12 of the American Federation of Government Employees (AFGE) and the National Union of Compliance Officers (NUCO), LMSA established a voluntary labor-management cooperation program called participation circles. These circles are designed to enhance the effectiveness of the agency and the quality of its work and to improve the quality of working life for all employees. Circles were set up in several field offices and orientation and training began in the national office during the year.

Several other actions were taken to improve the efficiency and effectiveness of the agency's administration and management. Studies of the mission and function of the pension and labor-management relations programs were completed. When analyzed, these studies will assist agency management to better organize the resources of these two programs.

Tighter controls were placed on agency travel authorizations, personnel hiring, and contracting requests for services to insure adequate competition and to take advantage of available cost reductions. All offices were asked to rejustify their need for automated data and word processing equipment. Results of this review will be used when renewing equipment for 1984 and purchasing new ADP systems.

A committee was established to formulate agency plans to reduce office space to bring LMSA into compliance with a space reduction directive issued by the General Services Administration. The agency plans to complete space reduction moves in 1984.

LMSA implemented an internal control program to prevent waste, fraud, and abuse of agency resources. All program offices were surveyed and corrective actions were taken where resources were found to be vulnerable to improper use.

Finally, LMSA management staff worked with Department officials to transfer one of the agency's offices, the office of Veterans' Employment. The transfer of this program office was required by legislation.

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Veterans' Employment and Training

The Office of the Assistant Secretary for Veterans' Employment (OASVE) was officially changed to the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET) by Secretary's Order 4-83, dated March 24, 1983. This was done to reflect the expansion of the office to include the Veterans' Reemployment Rights program and additional responsibilities, thus making it the focal point for all veterans' employment and training programs under the purview of the Department of Labor.

Veterans' Legislation

The Emergency Veterans' Job Training Act of 1983 (Public Law 98-77), enacted on August 15, 1983, established a 2-year program to encourage employers to hire and train long-term unemployed Korean conflict and Vietnam-era veterans. The Veterans Administration has responsibility for administering payments for on-the-job training to employers and certification of eligibility of employers and veterans. The Department of Labor is responsible for conducting outreach and public information efforts and matching certified veterans with certified employers, principally through the State Employment Service/Job Service system.

Veterans' Employment and Training Service (VETS)

Administered by the ASVET, the nationwide network of VETS staff supervise and oversee a wide range of veteran-related programs and activities, particularly services provided to veterans by the public employment service system and assistance under the Veterans' Reemployment Rights program.

Fiscal year 1983 was a transition period from programs operated under the Comprehensive Employment and Training Act (CETA) to those administered under the Job Training Partnership Act (JTPA). Title IV, Part C, of the JTPA authorizes programs to meet the needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans recently separated from the military service. Regulations were published by the ASVET in the *Federal Register* on October 24, 1983, to implement the awarding of grants and distribution of funds as well as the establishment of appropriate fiscal controls, accountability, and program performance standards under title IV, Part C. The field staff of the

VETS worked closely during this fiscal year with the JTPA Service Delivery Areas in each State to prepare for the implementation title IV C in fiscal 1984.

National Programs

During fiscal 1983, the OASVET operated five demonstration projects in addition to funding three community-based organizations and several national employment programs. These programs were targeted to meet the employment and training needs of disabled, visually impaired, minority, Vietnam-era and recently separated veterans. Funding for these national programs amounted to approximately \$2 million.

Job Service

The Job Service system administered by the Employment and Training Administration provided priority employment and training services to veterans in fiscal 1983. Veterans were placed in jobs at a rate of 22 percent in fiscal 1983 while the rate for total applicants was 21 percent.

Office of the Solicitor

During the 1983 fiscal year, the workload for the office of the Solicitor continued at a steady pace, and several additional duties were assumed. The Solicitor's Office received approximately 30,000 cases for litigation, of which about 19,000 were received by the 16 field offices. More than 8,000 written opinions were issued by the national and field offices during the year.

Of particular interest in fiscal 1983 was the establishment of the Special Litigation Division (formerly the Special Litigation Task Force) as a permanent organization within the Office of the Solicitor. Originally organized to litigate Employee Retirement Income Security Act of 1974 cases, this division serves as a central resource point for the litigation of usually complex, sensitive, or highest priority cases as designated by the Solicitor. In addition, departmental enforcement responsibilities under two new statutes, the Job Training Partnership Act and the Migrant and Seasonal Agricultural Worker Protection Act, were undertaken by the Divisions of Employment Training Legal Services and Fair Labor Standards, respectively.

Civil Rights

The division participated in litigation and major regulatory efforts pursuant to the equal employment opportunity and affirmative action obligations placed upon Government contractors and recipients of Federal financial assistance by Executive Order 11246, by secs. 503 and 504 of the Rehabilitation Act of 1973, by sec. 2012 of the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended; by CETA; and by other civil rights laws.

In *Department of Labor v. St. Regis Paper Company*, No. 78-OFCCP-1 (a case involving sex discrimination in hiring and validation of a company physical strength test at St. Regis' Libby, Mont., establishment), post-trial briefs were filed by both parties, and closing argument was scheduled for early next fiscal year.

In *Department of Labor v. Honeywell, Inc.*, Case No. 77-OFCCP-3 (a case involving sex discrimination in hiring and assignment and failure to take affirmative action regarding more than 2,000 women), both parties filed Exceptions with the Secretary to the administrative law judge's recommended decision, which had found that certain of the company's employment practices violated the Executive order.

In *Department of Labor v. Southern Pacific Transportation Company*, Case Nos. 79-OFC-10A, 79-OFC-10B, 79-OFC-17,

79-OFC-19 and 80 OFC-17 (a case involving discrimination in hiring under sec. 503 of the Rehabilitation Act), the administrative law judge issued a recommended decision on November 9, 1982, holding that the company had violated the act by rejecting applicants because of asymptomatic spinal conditions discovered through preemployment back x-rays, because the spinal abnormalities indicated from the x-rays do not confidently predict future back trouble. Both parties have filed Exceptions.

In *Taylor v. Department of Labor*, C.A. No. 75-1437 (E.D. Pa.) (a defensive case alleging that OFCCP failed to enforce the Executive order with respect to the construction industry in Philadelphia), the district court entered judgment for the Department on December 8, 1983. The court ruled that the Department's regulations do not impose the type of clear, affirmative, peremptory duty which would entitle plaintiffs to mandamus relief and that the Department's activities were sufficient to preclude a mandamus order. Plaintiffs appealed the decision to the U.S. Court of Appeals for the Third Circuit. Briefs have been filed by both parties, and oral argument scheduled.

In *WEAL v. Bell*, No. 83-1516 (D.C. Cir. March 11, 1983) (a defensive case alleging that the Department failed to enforce Executive Order 11246 with respect to sex discrimination at institutions of higher education), the district court, upon plaintiff's motion, replaced a 1977 consent decree (which *inter alia*, set out certain time frames for investigating individual and systemic complaints against institutions of higher education) with a new order. The Department of Justice has filed a notice of appeal with the U.S. Court of Appeals for the District of Columbia.

In *United States v. New Orleans Pub. Services Inc. (NOPSI)*, No. 73-1297 (E.D. La. Jan. 14, 1983) (a case involving NOPSI's status as a Government contractor and possible race and sex discrimination), the district court entered an order enjoining NOPSI from failing to comply with the Executive order and from refusing to allow a compliance review by either the Departments of Justice or Labor. The order also authorized the parties to initiate discovery regarding NOPSI's substantive compliance with the Executive order. NOPSI has appealed the court's order to the Fifth Circuit.

In *Department of Labor v. Priester Construction Co.*, Case No. 78-OFCCP-11 (a case involving the company's failure to meet goals for minority employment in construction and to comply with several required affirmative action steps), the Secretary entered a final Decision and Order on February 22, 1983, affirming most of the administrative law judge's finding of violations, but not ordering that Priester be debarred. Instead, Priester (not currently

a Government contractor) must demonstrate compliance with those portions of the affirmative action steps which it violated, before it can again bid.

In *Fight Back v. Donovan*, 80 Civ. 6235 (MJL) (S.D. N.Y.) (a case alleging that the Department failed to enforce the Executive order as it applies to New York City construction contractors), a Consent Order was entered into on April 29, 1983. The court's order imposes certain requirements upon OFCCP, including the initiation of a specified number of compliance reviews per fiscal year through the order's expiration date in April 1985.

In *Moon v. Donovan*, No. C81-1861A (N.D. Ga.) (a case alleging that the Department violated the regulations implementing sec. 503 of the Rehabilitation Act by failing to initiate enforcement proceedings against Roadway Express), the court found that OFCCP did not abuse its discretion by refusing to bring enforcement proceedings and recognized that the Department has a degree of discretion in selecting cases for enforcement. Plaintiff filed a notice of appeal with the Eleventh Circuit Court of Appeals on July 7, 1983.

In *DOL v. Harris Bank and Trust Co.*, Case No. 78-OFCCP-2 (a case involving allegations of racial and sexual discrimination in a wide range of the bank's employment practices), the Secretary, granting one of the bank's exceptions, held that certain statistical studies offered by the bank were improperly withheld and remanded the case for further proceedings consistent with his decision.

In *OFCCP v. Star Machinery Co.*, Case No. 83-OFCCP-4 (a case involving Star's obligation to maintain a written affirmative action program (AAP) under the Executive order), the Secretary, reversing the recommended decision of the administrative law judge, held that Star was required to have a written AAP by virtue of a Blanket Purchase Agreement pursuant to which Star sold over \$50,000 in machine tools and other industrial equipment to the Government. Star was given 120 days from the date of entry of the decision in which to submit its AAP, with failure to do so resulting in the cancellation of Star's current Government contracts and its debarment from future contracts until such time as it submits an acceptable AAP to OFCCP.

Employee Benefits

During fiscal 1983, the division completed the process of decentralizing the trial litigation function in cases arising under the Black Lung Benefits Act (BLBA) to the regional offices. As a direct result of the decentralization, greater representation was afforded to the Director, Office of Workers' Compensation Programs (OWCP), at the trial stage as well as substantial savings to the Black Lung Disability Trust Fund. The decentralization permitted the division

to expend its staff resources on the increasing number of appeals filed with the Benefit Review Board (BRB) and the United States courts of appeals under both the BLBA and the Longshoremen's and Harbor Workers' Compensation Act. In addition, the division participated in defending decisions issued by the Secretary under employee protection provisions contained in such statutes as the Energy Reorganization Act of 1974.

The division provided legal advice to the OWCP in the drafting and promulgation of final regulations necessary to implement the 1981 amendments to the BLBA, which were promulgated in the *Federal Register* on May 31, 1983. The division also worked closely with the OWCP in drafting regulations establishing procedures for excluding fraudulent physicians and medical providers from participating in the Federal Employees' Compensation Act (FECA)—the workers' compensation program for injured Federal workers.

Several significant decisions were issued during fiscal 1983 by the Supreme Court and the courts of appeals involving the statutes administered by the Employee Benefits Division. In *Lockheed Aircraft Corp. v. United States*, 103 S.Ct. 1033 (1983), the Supreme Court held that the exclusivity provisions of the FECA found at 5 U.S.C. 8116(c) do not bar third-party indemnity actions filed against the United States under the Federal Tort Claims Act (FTCA). Section 8116, the Supreme Court held, was designed to preclude damage actions against the Government by persons who could claim benefits under FECA because of the injury or death of a Federal employee and not to bar indemnity actions by third parties premised on the FTCA. This decision will have a significant impact on the division, because DOL has been designated as the sole Federal agency responsible for receiving, processing, and adjudicating claims (including those seeking indemnification) filed under the FTCA involving exposure to asbestos. A significant increase in the number of indemnification claims is expected to be filed with the division as a result of the *Lockheed* decision. The impact of *Lockheed* has already been felt by the division, however, in that the Justice Department has substantially increased the number of requests for litigation support services in preparing appropriate responses for use in the pending indemnification lawsuits.

In other cases involving the "coverage" issue, the courts of appeals have ruled both that a worker injured while operating a crane which was mounted on a barge afloat on the Sacramento River was entitled to Longshoremen's Act benefits, *Norman v. Director, OWCP, and Healy Tibbitts Construction Co.*, _____ F.2d _____ (9th Cir. 1983); and that an oil field worker injured

on a fixed platform located in Louisiana waters was a covered employee, *Herb's Welding v. Gray*, 711 F.2d. 666 (5th Cir. 1983).

In a very significant decision involving occupational diseases, the Ninth Circuit ruled, as argued by the division, that the level of benefits payable under the Longshoremen's Act is to be based on the wages earned at the time the disease became manifest rather than the wages being earned when the employee was last exposed to asbestos. *Todd Shipyards Corp. v. Director, OWCP*, 717 F.2d 1280 (1983).

Two important court of appeals' decisions were issued during the year which sustained the position asserted by the Department involving the Longshoremen's Act sec. 8(f) second injury provisions. On July 1, 1983, the Ninth Circuit, acting *en banc*, vacated a prior panel decision which had held that an employer's liability may be limited only when the preexisting permanent partial disability was manifest to the employer prior to his original employment of the claimant. On rehearing the court held that sec. 8(f) entitles an employer to relief if the preexisting contributing disability was manifest prior to the last injury for which compensation is sought. *Director, OWCP v. Cargill, Inc.*, 709 F.2d 616 (1983). In *Lambert's Point Docks, Inc. v. Harris*, 718 F.2d 644 (4th Cir. 1983), the court of appeals rejected the employer's argument that a disability may be "manifest" for sec. 8(f) purposes, if the condition could have been known had the proper diagnostic test been conducted prior to the job-related injury.

The Court of Appeals for the District of Columbia Circuit unanimously held, in *Kalaris v. Donovan*, 697 F.2d 396, *cert. denied*, 103 S.Ct. 3088 (1983), that persons appointed by the Secretary to act as members of the Benefits Review Board may be removed at the Secretary's discretion. In its decision the court of appeals reversed the district court which had held that Board members could not be removed without a showing of cause. The court, affirming the district court, ruled, however, that the Benefits Review Board was not an Article III court and, therefore, its members were not entitled to an Article III guarantee of life tenure.

In *Louisville & Nashville Railroad Co. v. Donovan*, 713 F.2d 1243 (6th Cir. 1983), the Department obtained a very favorable decision on the authority of a district court to enjoin the Secretary from applying the Black Lung Benefits Act to railroad employees or railroads. There, the Sixth Circuit held that the statutory scheme established by Congress for the determination of contested claims (ALJ hearings, BRB, and the court of appeals review) provided the exclusive remedy for resolving disputes under the act. Although the merits of the Department's position were not properly before the court, the court's decision found that the Department's inter-

pretation of the statute did not constitute a clear overreaching of its administrative authority. The injunction issued by the district court was vacated, and the action dismissed on October 14, 1983.

In cases involving the BLBA, the division participated in several significant cases wherein the appeals courts have construed the regulatory criteria for establishing entitlement to benefits and the impact which the 1981 amendments will have on pending cases. Thus, in *Consolidation Coal Company v. Sanati*, 713 F.2d 480 (4th Cir. 1983), the court accepted the Department's argument that the finder of fact is not *required* to invoke the interim presumption under 20 CFR 727.203(a) (4) based on a single documented, reasoned opinion of a physician. Rather, the court, in reversing the BRB, held that the administrative law judge must weigh all of the physician's opinions and determine whether the presumption is invoked by a preponderance of the evidence. In *Markus v. Old Ben Coal Co.*, 712 F.2d 322 (7th Cir. 1983), the court held that the administrative law judge correctly discredited a physician's opinion when the supporting documentation was found to be unreliable. In *Director v. Rowe*, 710 F.2d 251 (6th Cir. 1983), the court agreed with the Department's position that the finder of fact must examine the validity of the reasoning of physicians' opinions in light of the studies conducted and the objective indications upon which they are based in determining whether the interim presumption is invoked under 20 CFR 727.203 (a) (4):

In *Peabody Coal Company v. Lowis*, 708 F.2d 266 (7th Cir. 1983), the court reiterated its holding, in *Underhill v. Peabody Coal Company*, 687 F.2d 217 (7th Cir. 1982), that the documented opinion of a physician exercising reasoned medical judgement can be sufficient to rebut the interim presumption. The Department had previously taken the position that such an opinion must be stated in terms of reasonable medical certainty. The Department's position has been adjusted in accordance with the holdings in these cases.

In *Halon v. Director, OWCP*, 713 F.2d 30 (3rd Cir. 1983), *reh'g granted*, 713 F.2d 21 (1983), the appeals court held that a claimant was entitled to a rebuttable presumption of entitlement whenever it is established that the miner suffered from pneumoconiosis which arose out of coal mine employment even if the miner did not have 10 years of coal mine employment as required by the Department's regulations at 20 CFR 727.203(a). The Fourth Circuit, in *Director v. Beatrice Pocahontas Co.*, 689 F.2d 680 (1983), held that the regulatory presumption of total disability due to pneumoconiosis may be rebutted under 20 CFR 727.203(b) (2) by medical evidence which shows that the miner did not have a totally disabling respiratory impairment.

The provisions of the 1981 amendments to the BLBA transferring liability for payment of specified claims from individual coal mine operators to the Black Lung Disability Trust Fund were frequently litigated by the division. In *Markus v. Old Ben Coal Co.*, supra, the claimant argued that, since his claim had been administratively approved following preliminary review, the amendments mandated that benefits be paid by the Trust Fund notwithstanding the later decisions of the ALJ and BRB that his claim was without merit. The Seventh Circuit, while dismissing the coal mine operator, rejected claimant's argument ruling that Trust Fund liability would not attach until all appeals had been exhausted. In *Old Ben Coal Co. v. Blaize*, 103 S. Ct. 1522 (1983), the Supreme Court refused to review an order of the Seventh Circuit vacating a BRB decision denying benefits and remanding the matter for appropriate action which the court correctly assumed would be the reinstatement of benefits payable by the Trust Fund.

The division also participated in several cases involving the timeliness of appeals filed with the BRB and the authority of the Board to dismiss appeals for lack of prosecution. In *Wellman v. Director, OWCP*, 706 F.2d 191 (6th Cir. 1983), the court sustained the position of the Department holding that an appeal filed with the Board more than 30 days after the decision was filed and served on the claimant was not timely even though the decision had not been served on claimant's attorney. A similar result was reached by the Second Circuit in *Insurance Company of N.A. v. Gee*, 702 F.2d 411 (1983). More recently, the Seventh Circuit held that the doctrine of "excusable neglect" does not apply to administrative proceedings such as those under the BLBA and further that "[n]o constitutional, statutory, or other authority supports the enlargement of those [30 day] time limits." *Bennett v. Director, OWCP*, 717 F.2d 1167 (1983).

In *Kephart v. Director*, 701 F.2d (3rd Cir. 1983), the court held that the BRB abused its discretion when it dismissed a claimant's appeal for abandonment, because the claimant did not file a timely petition for review and brief and did not respond properly to an order to show cause. The court held that the record indicated that the claimant did not intend to abandon the appeal and noted that it would be inconsistent with the spirit of the act to allow one instance of unexplained tardiness to defeat the clear intention indicated by the claimant's overall conduct. The opposite result was reached by the Sixth Circuit in *Consolidation Coal Company v. Gooding*, 703 F.2d 230 (6th Cir. 1983), where the court upheld the Board's dismissal of the employer's appeal when the employer failed to submit a timely petition for review and brief and failed to respond to an order to show cause. The division also assisted

the Department of Justice in defending a decision issued by the Secretary under the employee protection provisions of the Energy Reorganization Act of 1974. In the extensive opinion issued Feb. 10, 1983, in *DeFord v. Secretary of Labor and Tennessee Valley Association*, 700 F.2d 281 (6th Cir. 1983), the court sustained the Secretary's finding of discrimination but reversed the holding that the complainant was not entitled to compensatory damages as well as the portion of the Secretary's order which did not direct that the claimant be reinstated to his former position. In a subsequent per curiam opinion, the court held that the statute does not authorize a court of appeals to award attorney fees for work done in connection with an appeal (715 F.2d 231). The Eleventh Circuit affirmed without opinion the decision of the Secretary holding that TVA did not violate the Energy Reorganization Act by refusing to renew an employment contract because of poor work performance. *Liverett v. Donovan*, 711 F.2d 1069 (1983).

In the Federal Tort Claims Act area, the Seventh Circuit issued the first appellate court decision holding the United States liable for damages because of the alleged negligence of the DOL inspectors under the Federal Mine Safety and Health Act or the Occupational Safety and Health Act. The Seventh Circuit ruled that the inspector's negligence was the proximate cause of the death at issue in *Hylin v. United States*, 715 F.2d 1206 (1983). A petition for rehearing was pending at the end of the fiscal year. The Sixth Circuit also rendered a decision adverse to the Department in *Wright v. United States*, 717 F.2d 254 (1983). At issue in *Wright* was whether FECA provided the exclusive remedy (and therefore, limited the liability of the Government) for injuries sustained by a Federal employee who sustained an injury while being treated by her employer (the Veterans Administration) for a nonjob-related condition. The court of appeals, notwithstanding a statement by the Department to the contrary, held that a substantial question of FECA coverage did not exist and that the plaintiff could pursue her remedies under the Federal Tort Claims Act.

Employment and Training Legal Services

Fiscal 1983 was an active year for litigation in all of the division's areas of responsibility. A critical victory was achieved under the Comprehensive Employment and Training Act (CETA), in *Atlantic County v. Department of Labor*, No. 82-3077 (3rd Cir. Aug. 25, 1983), in which the Third Circuit affirmed the authority of the Department to recover monies misspent prior to the 1978 CETA amendments. This decision was a direct outgrowth of the May 31 decision of the Supreme Court in *Bell v. New Jersey*, 103 S.Ct.

2187 (1983), which upheld the authority of the Department of Education to recoup misspent grant funds under provisions of the Elementary and Secondary Education Act which is analogous to CETA. Because the pre-1978 period covers the years of CETA's heaviest funding, the financial impact surrounding this issue is significant and a number of other cases raising similar issues are still pending.

In a very significant decision relating to the Department's audit of employment and training programs, the court expressed substantial deference to the agency's disallowances, *Florida Farmworkers Council v. DOL*, No. 80-5909 (11th Cir. July 28, 1983).

With respect to other aspects of CETA, the Sixth Circuit supported the Department's position regarding its authority to use back pay as a remedy for individuals discharged in violation of the Act. In *Commonwealth of Kentucky v. Donovan*, 704 F.2d 288 (6th Cir. 1983), the court upheld the use of back pay in cases arising both before and after 1978. Considerable litigation continues as to the types of statutory violations for which back pay is appropriate, e.g., *Monroe County Florida v. DOL*, 609 F.2d (1359 11th Cir. 1982).

This year has also been among the most active in the history of the Department's role in certifying the admission of temporary workers for agricultural employment. As of the end of fiscal 1983 at least eight actions were pending in various courts concerning the issue of how the Department determines the wages which must be paid by employers seeking to use aliens. The decisions in *NAACP Jefferson County v. Donovan*, 566 F. Supp. 1202 (D.D.C. 1983), provided relief generally favorable to employees, but other decisions point in a direction different from the *NAACP* decision. Also now under challenge is both the concept of "adverse effect wage rates," i.e., the wage level needed to avoid adverse impact on domestic wages, and the methodology by which those wage rates are set.

In the area of unemployment insurance, the division represented the Department in administrative proceedings, brought under the Federal Unemployment Tax Act (FUTA) against ten States, that could have affected their certification for 1983. The proceedings against nine of the States concerned a 1982 amendment to FUTA. Proceedings against three were successfully resolved before the scheduled hearing, and stipulations were entered into by five other States which will, if fully executed by those States, lead to certification under FUTA for 1983. Two other cases were still pending at the end of the fiscal year. Administrative proceedings brought last year against eight States on other FUTA issues were also ultimately resolved this fiscal year.

The Ninth Circuit supported the Secretary's interpretation of the manner in which unemployment benefits are offset by various pension benefits in *Rivera v. Becerra*, No. 81-4473 (9th Cir. Aug. 29, 1983), by reversing a partially unfavorable district court decision. Other litigation continued on pension offset issues.

Litigation and regulatory activity occurred concerning the Trade Adjustment Assistance (TAA) provisions of the Trade Act of 1974 during fiscal 1983. The United Auto Workers successfully challenged a decision not to propose guidelines on waiver of TAA overpayments in *U.A.W. v. Donovan*, No. 82-3137 (D.D.C. Jan. 17, 1983). This division subsequently provided technical assistance in drafting proposed regulations, which were published in proposed form on March 4, 1983 (48 FR 9444).

The United Auto Workers also successfully challenged the Secretary's interpretation of certain prefiscal 1982 eligibility requirements for Trade Readjustment Allowance (TRA) in *U.A.W. v. Donovan*, No. 81-1954 (D.D.C. July 28, 1983), in which there has been an appeal. In *U.A.W. v. Donovan*, No. 82-1458 (D.D.C. July 15, 1983), a second federal district court ruled that the Secretary had erred in failing to make funds available for Trade Act training in October 1981, although Congress had appropriated no funds for the specific purpose. That case has also been appealed, and the Court of Appeals for the District of Columbia Circuit has granted the Department's motion for stay.

The United States Supreme Court denied certiorari in *Porcher v. Brown*, 660 F.2d 1001 (4th Cir. 1982), a case in which the Fourth Circuit had concluded, contrary to the Secretary's interpretation, that FUTA requires unemployment benefits to be provided to women who voluntarily leave work because of pregnancy.

This division provided technical assistance in preparing the Administration's amendments to the Federal Supplemental Compensation Act of 1982, other Administration initiatives, and various pieces of legislation.

With regard to employment and training programs, this division has worked closely with the Employment and Training Administration in implementing the Job Training Partnership Act (JTPA). Final regulations implementing titles I, II, and III of JTPA are now effective. Proposed regulations covering title IV of the act have been published, and those final regulations will become effective in the near future. Regulations implementing JTPA's amendments to the Wagner-Peyser Act have also been proposed, and, like the title IV regulations, a final Wagner-Peyser rule will soon become effective.

Fair Labor Standards

During fiscal 1983, the Fair Labor Standards Division undertook enforcement responsibility for a new statute, provided legal assistance in connection with the promulgation and defense of new regulations, and successfully engaged in major litigation at both the trial and appellate court levels.

The new statute is the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). The MSPA became effective on April 14, 1983, replacing the old Farm Labor Contractor Registration Act, which was simultaneously repealed. The act requires covered farm labor contractors and agricultural employers and associations to comply with various minimum standards of fairness in their treatment of farm workers, including standards relating to prior disclosure of the terms of employment, actual observance of those terms, prompt payment of wages when due, and provision of safe housing and safe transportation. The act also requires farm labor contractors to obtain a certificate of registration from the Secretary and prohibits them from employing illegal aliens.

The MSPA was a consensus bill, submitted to Congress by the Department with the support of both agricultural employer and farm worker organizations. The division played a substantial role in the drafting of the bill. The division also provided legal advice in connection with the Department's promulgation in August 1983 of regulations implementing MSPA.

In July 1983, the Department issued revised regulations regarding procedures to be followed in administrative proceedings to determine compliance with the Davis-Bacon Act. The new regulations establish a broader right to a hearing and provide for direct appeal from the administrative law judge to the Wage Appeals Board, rather than to the administrator.

In addition to its work on regulatory issues, the division was involved in a number of significant cases in both the district and appellate courts. In October 1982, the Department entered into a settlement of its litigation under the Fair Labor Standards Act (FLSA) against the United States Postal Service. The settlement provided for payment of \$400 million in back wages to Postal Service employees, by far the largest settlement ever obtained in an FLSA suit. The Postal Service also agreed to conform its pay practices to the requirements of the Act.

During the past fiscal year, the Department scored significant victories in litigation involving the scope of the Supreme Court's decision in *National League of Cities v. Usery*, 426 U.S. 833 (1976), which held that Federal minimum wage and overtime pay standards are unconstitutional as applied to State and local government employees who perform "traditional government functions."

In two cases, the Courts of Appeals for the Sixth and Eleventh Circuits held that the operation of mass transit systems does not constitute a traditional government function within the meaning of the *National League* decision and that the FLSA may therefore constitutionally apply to such systems. *Alewine v. City of Augusta*, 699 F.2d 1060 (11th Cir. 1983); *Dove v. Chattanooga Area Rapid Transit Authority*, 701 F.2d 50 (8th Cir. 1983). In a third case, the Ninth Circuit held that California's "choreworker" program, under which the State supplies workers to provide in-home care to disabled public assistance recipients, is not a traditional government function. *Bonnette v. California Health & Welfare Agency*, 704 F.2d 1465 (9th Cir. 1983). All three cases were private actions in which the Department intervened at the appeals level to defend the constitutionality of the application of the FLSA.

In another case, however, a district court ruled that the FLSA may not constitutionally apply to a municipal mass transit system. *San Antonio Metropolitan Transit Authority v. Donovan*, 557 F. Supp. 445 (W.D. Tex. 1983). Because the court held a Federal statute unconstitutional, the Government filed an appeal directly to the Supreme Court. The Court is likely to resolve the issue during its October 1983 term. At year's end, a second FLSA case was also pending with the Supreme Court. In *Donovan v. Lone Steer, Inc.*, 565 F.Supp. 229 (D.N.D. 1982), the district court held unconstitutional the provisions of the FLSA authorizing issuance of an administrative subpoena, because the provisions do not require first obtaining a judicial warrant.

The Department scored other legal victories in cases involving the scope of the FLSA's definitions of "employer" and "employee." Two courts held that an officer of a corporation may be an employer for the purposes of the FLSA, and thus personally liable for minimum wage violations. *Donovan v. Sabine Irrigation Co., Inc.*, 695 F.2d 190 (5th Cir. 1983); *Donovan v. David Agnew*, 712 F.2d 1508 (1st Cir. 1983). In a private case in which the Department participated as *amicus curiae*, the Fifth Circuit held that a farm labor contractor engaged by a large farm owner to furnish workers to chop cotton was an employee of the owner rather than an independent contractor, in view of the farm labor contractor's economic dependency on the owner and the routine nature of the tasks he performed. Accordingly, the court concluded that the workers supplied by the farm labor contractor were also employees of the owner. *Castillo v. Givens*, 704 F.2d 181 (5th Cir. 1983).

In *Donovan v. Alamo Foundation*, 25 WH Cases 1170 (W.D. Ark. 1983), a district court held that individuals who work in commercial businesses operated by a religious foundation and are totally

dependent on the foundation for room, board, and subsistence, are employees of the foundation subject to the act's minimum wage provisions. Another district court held, however, that individuals selected by an airline for training to become its flight attendants are not employees within the meaning of the act during the training period. *Donovan v. Trans World Airlines*, 26 WH Cases 202 (W.D. Mo. 1983). At the end of the year, both the *Alamo Foundation* and the *Trans World Airlines* cases were pending appeal in the Eighth Circuit.

The Department received a favorable ruling from the Ninth Circuit in *Donovan v. Crisostomo*, 689 F.2d 869 (9th Cir. 1982), a significant FLSA case in which the court upheld the Department's position that full payment for all straight time hours worked is a prerequisite to satisfying the act's overtime provision.

The Ninth Circuit also upheld the Department's position in a case involving sec. 304 of the Consumer Credit Protection Act, which prohibits an employer from discharging an employee because his wages have been subjected to garnishment on account of only one indebtedness. In *Donovan v. Southern California Gas Co.*, 715 F.2d 1405 (9th Cir. 1983), the court held that wages are "subjected to garnishment" only when they are actually withheld pursuant to a garnishment order, rather than upon mere service of a valid garnishment order. Therefore, the court concluded that an employee's wages had not been subjected to garnishment for a second indebtedness when she secured a release from the creditor after service of the second garnishment order (but before any wages had been withheld from her check) and that the company had acted unlawfully in discharging her.

Finally, the Department secured a significant victory in *American Federation of Government Employees v. Donovan*, No. 82-1375 (D.C. Cir. Nov. 23, 1982), in which the court rejected the union's contention that the Service Contract Act requires government contractors to pay their employees wages which are at least equal to the wages that Federal employees would receive if they were performing the contract work.

Labor Management Laws

During this fiscal year, the division defended the Secretary's decision not to issue a complaint under the Labor-Management Reporting and Disclosure Act (LRMDA) in several district court actions and handled several significant appellate court cases under the LMRDA, the Redwood National Park Expansion Act (Redwood Act), and the Veterans Reemployment Rights Act (VRR). In addition, the division assisted the regional solicitors' offices and

various United States Attorneys' offices in handling numerous district court cases under these statutes and one request for attorneys' fee under the Equal Access to Justice Act (EAJA) which the division is now handling on appeal. The division also assisted in the preparation of comprehensive regulations regarding employee protections under the Airline Deregulation Act.

In a case of first impression under sec. 502 of the LMRDA, the district court, in *Blodgett v. U.S. Dept. of Labor*, Civ. No. 82-864-RE (D. Ore. April 5, 1983), granted the Secretary's motion for summary judgment and held that a union official "handles" funds, within the meaning of sec. 502 and the interpretative regulations at 29 C.F.R. sec. 543.8(d), and, therefore, must be adequately bonded, when he is responsible for the safekeeping of, or has access to, union funds maintained in savings deposits in a bank, even though the official is not an authorized signatory on the accounts. The court agreed with the Secretary's position that actual authority to draw on the funds was immaterial where custody of functions granted to the officer creates a substantial risk of fraud or dishonesty.

The division successfully argued that the Secretary's decision not to institute litigation based on complaints filed under the LMRDA was not arbitrary and capricious in four cases decided this year. *Balanoff v. Donovan*, 114 LRRM 2884, 2887 (N.D. Ill. June 23, 1983); *Brown v. Marshall*, Civ. Action No. C81-578 (N.D. Ohio March 26, 1983); *Denov v. Donovan*, Civ. Action No. 82-C2951 (N.D. Ill. Nov. 24 1982); *Torres v. Donovan*, No. CV82-2872 CCH (C. D. Calif. Oct. 8, 1982). In *Balanoff*, the court remanded the case to the Secretary twice for further proceedings before determining, after extensive briefings by all parties and the submission of a second Supplemental Statement of Reasons, that the Secretary's findings were rational and defensible. Dismissing the complaint against the Secretary, the court held that the "court's inquiry turns solely on the significance of the facts deemed essential by the Secretary; a plaintiff. . . is not entitled to a hearing in which he can introduce wholly new essential facts of a historical nature."

In three cases decided by the Court of Appeals for the Ninth Circuit this year, the Secretary's position was upheld with respect to the question whether certain employees worked for "affected employers" within the meaning of the Redwood Act. In *Bradford v. Donovan*, 695 F. 2d 409 (9th Cir. 1983), the court agreed with the Secretary that a railroad which transported lumber products was not engaged in timber harvesting or other wood processing operations as defined in the act. In *Drapich v. Donovan*, 693 F. 2d 1296 (9th Cir. 1983), the court held that an employer did not

qualify as an "affected mill employer" by applying the Secretary's definition of the statutory term "obtained . . . its raw woods materials . . . during calendar year 1977." Finally in *Hoehn v. Donovan*, No. 82-7494 (9th Cir. July 27, 1983), the court agreed that a machine shop that makes and repairs sawmill parts is one step removed from the process of converting timber into finished lumber. Thus, the court affirmed the Secretary's denial of benefits for employees in all three cases.

The Ninth Circuit also decided two cases against the Department under the Redwood Act. In *David v. Donovan*, 498 F.2d 1057 (9th Cir. 1983), the court held that an employee otherwise entitled to benefits need only show that a layoff was significantly related to the park expansion in order to be eligible for such benefits. In another case, the court also upheld the decision of a district court invalidating a regulation and holding that a layoff during the "window period," which under the statute is conclusively presumed to be attributable to park expansion, entitles an employee laid off, but later recalled by an affected employer, to collect benefits for any future layoff without establishing that the subsequent layoff is also related to park expansion. *Local 3-98, International Woodworkers of America, AFL-CIO v. Donovan*, No. 82-4008 (9th Cir. July 27, 1983). In a related case, *Evernden v. Donovan*, 701 F.2d 184 (9th Cir. 1983), the court held that an employee seeking benefits must show, on remand, that he qualified as a "covered" employee where the only evidence to the contrary was not "substantial" and there was no other evidence in the record.

In a case of first impression regarding the measure of damages under the VRR, the court agreed to calculate a back pay award to a veteran using a pay period-by-pay period approach and also awarded prejudgment interest, reversing the district court's determination that the veteran was entitled to no back pay at all because of greater earnings during an extended period. *Dyer v. Hinky Dinky*, 710 F.2d 1348 (8th Cir. July 5, 1983). And in *Brandt v. Minneapolis, Northfield and Southern Railroad Company*, 714 F.2d 793 (8th Cir. Aug. 11, 1983), the same court held that, under the Vietnam Era Veterans Readjustment Act of 1974, a veteran was entitled to seniority date retroactive to the date he would have been selected for promotion but for his military service, where the right to enter a training program to qualify for the promotion accrued as a prerequisite of seniority and the veteran successfully completed the training after returning to work.

Legislation and Legal Counsel

In fiscal year 1983, the Division of Legislation and Legal Counsel continued to work closely with other DOL officials in drafting proposed bills and related background materials, presenting the Department's views on pending legislation, and giving technical assistance to congressional committees. The division also performed a wide variety of "house counsel" functions, provided administrative legal services under the Freedom of Information and Privacy Acts, provided representation in connection with the Department's internal labor relations and personnel matters, assisted in the preparation of *Federal Register* documents, and furnished legal services to the Office of the Inspector General and the Bureau of Labor Statistics.

The division continued to work on the development of legislation that would strengthen the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Labor-Management Reporting and Disclosure Act (LMRDA). The proposed legislation would disqualify individuals convicted of certain crimes from serving in specified positions relating to labor organizations and employee benefit plans. The legislation passed the Senate twice during the 97th Congress. The House subcommittee on Labor-Management Relations held a hearing in December 1982 at which the Secretary testified. In the 98th Congress, this legislation was reintroduced as S.336. The Secretary once again testified in support of the bill before the Senate Committee on Labor and Human Resources, and the full Senate again passed the legislation in June.

The division also participated in the development of legislation which would provide greater equity in pensions, especially for women. Draft legislation was submitted by the President to the Congress to amend many of the provisions of ERISA which, if enacted, would enable women to more easily qualify for pensions themselves as well as share in those of their former or deceased spouses.

In addition, the division participated in drafting the "Employment Act of 1983," which was transmitted to the Congress on March 11, 1983. It was introduced in the House of Representatives and Senate as H.R. 2149 and S. 1023, respectively. This legislation would provide for an extension of a modified Federal Supplemental Compensation (FSC) for certain unemployed workers, tighten eligibility, and establish a related job voucher program to encourage employment. The legislation would also permit the States to use up to 2 percent of State unemployment tax receipts to provide training assistance to displaced workers. To provide a greater incentive for employers to hire young people, a provision in the legislation would establish a youth opportunity wage of \$2.50 per

hour for persons under 22 years of age that would be effective during the summer months. No congressional action was taken on this legislation, as of the close of the fiscal year. However, FSC was extended by Public Law 98-135 until March 31, 1985.

The division assisted the Employment Standards Administration by working on an interagency task force on developing and drafting comprehensive legislation to amend the Federal Employees' Compensation Act. The proposed legislation was submitted to the Congress in July of 1983 and was awaiting further action at the end of the fiscal year.

In fiscal 1983, the Legislation and Legal Counsel Division worked on the preparation and review of numerous statements to be delivered by DOL witnesses before congressional committees. Departmental officials testified on such important legislative matters as gender equity in insurance and pensions, mine safety and health enforcement, veterans' employment and training, unemployment compensation, immigration reform, the influence of organized crime in the pension field, modifications in ERISA and the LMRDA, and regulatory reform. Departmental officials also provided oversight testimony with respect to the administration of various DOL programs.

In addition, more than 200 reports to congressional committees and the Office of Management and Budget were prepared by this division on a broad spectrum of legislative proposals of interest to the Department.

In addition to its legislative activities, the division performed a wide variety of "house counsel" functions. These functions included the furnishing of advice with respect to the Ethics in Government Act of 1978 as well as the other conflict-of-interest laws, orders, and regulations. The division consulted numerous departmental agencies, officials, and employees on financial disclosure requirements, the avoidance of potential conflicts of interest, and permissible postemployment activities. On March 22, 1983, the Department issued regulations establishing procedures for imposing administrative sanctions for violation of the postemployment conflict-of-interest provisions of title V of the Ethics in Government Act.

The division also provided legal advice on a wide variety of diverse matters including administrative law issues: Executive Order 12291 (Regulatory Reform), the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Equal Access to Justice Act.

During fiscal 1982, the division performed the full range of legal services associated with the Freedom of Information Act (FOIA) and the Privacy Act. Three hundred seventy-two (372) FOIA Administrative appeal decisions were issued, a significant

increase over fiscal 1982. Among the litigated cases under the FOIA, the Department successfully defended the withholding of documents prepared by the Administration's Transition Team. The district court in Illinois ruled, in a precedential decision, that such records were not "agency" records. The Department has also successfully defended several cases arising under its subpoena regulations. The Department receives approximately 1,500 subpoenas each year in cases in which the Department is not a party.

The division also provides representation in the Department's internal labor relations, equal employment opportunity, and disciplinary cases both administratively and in the federal courts. In addition, advice and guidance is provided to all agencies and in particular the Office of the Assistant Secretary for Administration on general personnel matters as well as specific problem areas.

During the fiscal year 1983, the division handled over 300 employment relations cases. Of significant note is the favorable resolution of a large class action in district court which alleged that female employees in the Employment and Training Administration were being discriminated against on the basis of sex in hiring and promotions. Furthermore, in the administrative appeals area, the Merit System Protection Board has reopened for comment its decision upholding the Department's position that the Board has no jurisdiction to examine an agency's performance appraisal system in considering a rified employee's appeal.

Finally, the division also continued to provide legal advice and other legal services to the Office of Inspector General, including enforcement of administrative subpoenas and representation of OIG employees.

Mine Safety and Health

In fiscal year 1983 the Division of Mine Safety and Health devoted a substantial amount of effort to advancing the progress of the Mine Safety and Health Administration's (MSHA) regulatory program, particularly the agency's comprehensive review of existing standards. The division also provided legal counsel and assistance in connection with legislative, administrative, and investigatory matters and represented the agency in administrative and court litigation.

In the regulatory area, the division worked with MSHA personnel in the development of safety standards for the selection, use, examination, and retirement of wire ropes used for hoisting. Proposed standards, applicable to all mines, were published in the *Federal Register* on November 16, 1982, and public hearings were conducted at four locations around the country during March 1983.

Final rules were undergoing departmental review at the end of the year. The rules clarify the agency's wire rope standards as to strength, examination, and retirement of ropes, update the standards to reflect current mining practices and state-of-the-art technology, and reduce recordkeeping and paperwork requirements.

The division continued to play an active role in MSHA's ongoing comprehensive regulatory review. In the agency's review of standards applicable to metal and nonmetal mining and milling operations, the division assisted MSHA in the development of preproposal draft standards addressing eight critical hazard areas: fire prevention, ground control, electricity, equipment, air quality, loading and hauling, gassy mines, and explosives. During the year, seven preproposal draft standards were completed and circulated for public comment. A proposed rule on fire prevention and control was filed with the *Federal Register* and was awaiting publication at year's end.

In the agency's review of standards applicable to underground coal mines, the division assisted MSHA in the development of preproposal draft standards for self-contained self-rescue devices (SCSR's), hoisting and transportation of persons and materials, and roof, face, and rib support. The draft documents were circulated for public comment during the later part of the fiscal year, and public hearings were held on the draft hoisting and SCSR standards during August 1983. At year's end, public hearings were scheduled on the draft standards for roof, face, and rib support, and the division was actively assisting MSHA in the development of preproposal draft standards for explosives, cabs and canopies, use of electricity and electrical devices, mine ventilation, fire protection, and combustible materials.

The division also assisted MSHA in the development of a preproposal draft regarding an alternative mine product approval procedure (30 CFR Par 37). The alternate procedure, a draft of which was circulated for public comment in March 1983, would permit manufacturers applying for approval of products to certify that the technical requirements specified by MSHA for approval have been met. The procedure could thereby eliminate the necessity for MSHA testing of certain products while continuing to assure the safety of products used in underground mines. Public hearings on the preproposal draft were held in April 1983, and a proposed rule was under development at the end of the year.

The division worked closely with MSHA and other Department personnel in analyzing legislation introduced in both houses of Congress during the year to reform the Federal Mine Safety and Health Act of 1977 (Mine Act). The division was instrumental in preparing a departmental report on the bill and testimony

delivered by the Under Secretary before the Senate Labor Subcommittee. The bills (S. 1173 and H.R. 3338) closely parallel proposals advanced by MSHA in fiscal 1982.

During fiscal 1983, approximately 1,200 new cases were filed with the Federal Mine Safety and Health Review Commission, including 900 civil penalty cases filed by the Solicitor's Office on behalf of the Secretary under sec. 110 of the Mine Act. While a majority of these cases were handled by regional offices, the division continued to handle 212 cases requiring close coordination with MSHA headquarters.

The division also handled all litigation before the Department's administrative law judges arising out of petitions for modification of MSHA standards. During the year, 14 new petition cases were referred to the division. The division also handled 29 actions for temporary reinstatement on behalf of miners who were discharged or otherwise discriminated against because of their exercise of statutory rights under the Mine Act. In one discrimination case, the division recovered back wages and interest totaling almost \$50,000 on behalf of a discharged miner. In other cases handled or reviewed by the division, 17 individual agents of corporate mine operators received civil penalty assessments for authorizing, ordering, or carrying out violations of the Mine Act and 19 criminal indictments were obtained by the Department of Justice with the assistance of the division. These indictments resulted in 20 guilty pleas or convictions.

In a major criminal case arising out of a 1980 explosion at Westmoreland Coal Company's Ferrell No. 17 Mine, which killed five miners, the company pled guilty to 16 counts of willful violation of the Mine Act. The company paid a \$600,000 fine and agreed to donate \$475,000 to mining related charities. Five individual agents of Westmoreland subsequently were indicted and either pled guilty or were convicted after trial. Also during the year, Scotia Coal Company paid \$75,000 in charitable contributions in lieu of a fine for violations arising out of a 1976 explosion. The division provided assistance to the Department of Justice throughout these prosecutions.

The division continued to place increased emphasis on the pursuit of mine operators who failed to pay final orders assessing civil penalties; the great bulk of these cases involve small operations. Penalties amounting to over \$200,000 were collected in fiscal 1983, and over 300 complaints were prepared by the division and forwarded to the various U.S. Attorneys for filing. These complaints sought collection of approximately \$2 million in unpaid penalties. As part of the civil penalty collection effort, MSHA entered into a contract in 1983 with a private collection agency to improve the prelitigation processing of collection cases.

During the year, 150 Freedom of Information Act matters were handled by the division, many involving discovery-type requests for investigative records. MSHA's policy of protecting confidential sources and predecisional materials in special investigation files received judicial approval in *Deshayes v. Department of Labor*, C.A. No. 82-569L (D.N.H. 1983). Finally, the division provided assistance to MSHA in the investigation of several mine disasters, including the McClure explosion, which occurred in June 1983 in southwestern Virginia.

During the year, a number of important ALJ decisions were issued. In the health area, *Secretary of Labor v. U.S. Steel Co.*, 5 FMSHRC 40 (January 13, 1983), upheld MSHA's policy of reducing allowable coal dust levels based upon one sample of airborne quartz concentrations. The *U.S. Steel* case and *Consolidation Coal Co. v. Secretary of Labor*, 5 FMSHRC 378 (March 3, 1983) held that relatively low overexposure to the respirable dust limits specified in 30 CFR 70.100(b) will support significant and substantial findings in a citation. The *Consolidation Coal* case was pending review before the Commission at the end of the year. In cases involving the Mine Act's jurisdiction, *Secretary of Labor v. Richard Kleppstein, et al.*, 5 FMSHRC 1424 (August 9, 1983), held that mine exploration activities come within the scope of the act; and *Secretary of Labor v. Austin Powder Co.*, 5 FMSHRC 81 (January 14, 1983), held that a contractor performing blasting activities at a mine site is subject to the act's requirements.

The provision of the Mine Act which concerns the right of miners' representatives to participate in Federal inspection activities ("walkaround rights") was further clarified in *Secretary of Labor v. Monterey Coal Co.*, 5 FMSHRC 1223 (July 8, 1983), which held that walkaround pay for miners' representatives extends to technical investigations made by MSHA. The division is also seeking review of a decision holding that walkaround rights do not apply to citation review conferences conducted pursuant to the civil penalty assessment process under 30 CFR part 100. *Southern Ohio Coal Co. v. Secretary of Labor*, 5 FMSHRC 729 (April 20, 1983).

The Commission issued several significant decisions during the year. In particular, in *Secretary of Labor v. Consolidation Coal Co.*, 4 FMSHRC 1791 (October 29, 1982), the Commission ruled that an administrative law judge has the authority to modify an invalid sec. 104(d)(1) withdrawal order to sec. 104(d)(1) citation. In *United Mine Workers of America v. Secretary of Labor*, 5 FMSHRC 807 (May 11, 1983), the Commission held that the Mine Act does not empower miners or miners' representatives to challenge the Secretary's issuance of a citation but only the reasonableness of the abatement period. The union's appeal of that

decision was pending in the District of Columbia Circuit at the end of the year. The Commission also held that sec. 115 of the Mine Act requires a mine operator to reimburse new miners for the costs of their training and for wages lost during the training where the operator relies on that training to satisfy the statutory obligation to provide training. The failure to reimburse the miners, the Commission held, violated the provisions of sec. 105(c) protecting miners' statutory rights. *Secretary of Labor ex rel. Bennett, et al., v. Emery Mining Corp.*, 5 FMSHRC 1391 (August 8, 1983). That case was pending in the Tenth Circuit at the end of the year. In *Secretary of Labor v. Sellersburg Stone Co.*, 5 FMSHRC 287 (March 11, 1983), the Commission stated that, in assessing civil penalties under the Mine Act, it and its administrative law judges are not bound by the Secretary's regulations governing the proposal of civil penalties—a position with which the Secretary agrees. That case was also appealed to the Seventh Circuit. Finally, the Commission ruled that MSHA has broad discretion in approving or disapproving plans dealing with the construction and maintenance of impoundment structures. *Secretary of Labor v. Monterey Coal Co.*, 5 FMSHRC 1010 (June 13, 1983).

During the year the division prevailed in nearly all of its appellate court litigation. In *Donovan on behalf of Chacon v. Phelps Dodge Corp.*, 709 F.2d 86 (D.C. Cir. 1983), the District of Columbia Circuit held that, in analyzing this discrimination case, the Commission had ignored the "substantial evidence" standard for the review of factual findings and had improperly substituted its findings for those of the administrative law judge. The court also explained that a factfinder must carefully scrutinize and weigh all the evidence presented by both the miner and operator in a mixed-motive discrimination case. In *Richardson v. Secretary of Labor*, 689 F.2d 632 (6th Cir. 1982), the court upheld the constitutionality of sec. 109(c) of the 1969 Coal Act, which dealt with the assessment of civil penalties against corporate agents. Supreme Court review in *Richardson* was subsequently denied. In *Cowin & Co. v. Federal Mine Safety and Health Review Commission*, 694 F.2d 966 (4th Cir. 1982), the Fourth Circuit reaffirmed the Secretary's broad discretion to cite either owners or independent contractors for violations under the 1969 Coal Act and upheld the assessment of \$58,000 in civil penalties. In *Climax Molybdenum Co. v. Secretary of Labor*, 703 F.2d 447 (10th Cir. 1983), the court held that an operator was not entitled to a declaratory order interpreting the FSMHA dust standard, where MSHA had voluntarily vacated citations which had been issued against the operator, and that the operator could not set off the expenses of the litigation against any

future civil penalties that might be assessed against it. However, in *Southern Ohio Coal Co. v. Federal Mine Safety and Health Review Commission*, No. 81-3007 (6th Cir. Sept. 12, 1983), the Sixth Circuit concluded, contrary to the position argued by the Secretary, that miners did not have a protected right to refuse to work under unsafe conditions under the 1969 Coal Act.

Finally, the Supreme Court denied review in a case where the District of Columbia Circuit had ruled that miners' representatives are entitled to receive walkaround pay for accompanying MSHA inspectors during "spot" inspections as well as during "regular" inspections. *The Helen Mining Co., et. al. v. Donovan*, 459 U.S. _____ (1982).

Occupational Safety and Health

The division assisted the Occupational Safety and Health Administration with numerous standards during the fiscal year. A major proposal on employee exposure to ethylene oxide was issued, and rulemaking hearings were held. If adopted, the rule would significantly reduce employee exposure to this toxic chemical which causes cancer. With the assistance of this division, OSHA also issued a proposal to modify the cotton dust standard to make it more cost effective and to eliminate unnecessary coverage. Hearings were also conducted on this standard. Proposals for underground construction (tunnels) and single piece rim wheels were also issued. Rulemaking was completed and a final rule was adopted providing a vertical standard for marine terminal operations. In a precedent-setting action, a document containing the first final risk assessment and significant risk determination, dealing with inorganic arsenic, was issued. Final rules were also published on hearing conservation and on coal tar pitch volatiles. Work activity continued on many other standards projects, including lead, asbestos, electrical safety fall protection, field sanitation, carcinogen policy, respirators, ethylene dibromide, oil and gas well drilling, and grain handling.

Several significant decisions affecting OSHA were handed down in the courts this year. In the regulatory area, there were three significant cases. In *Public Citizen Health Research Group v. Aucter*, 702 F.2d 1150 (D.C. Cir. 1983), the circuit court held that OSHA was not required to issue an emergency temporary standard under sec. 8(c) of the act to reduce the permissible exposure to ethylene oxide. The court found that, on the record before him, the Assistant Secretary had not abused his discretion in determining that no grave danger existed necessitating an emergency standard. In another regulatory case, *Louisiana Chemical Association v. Bingham*, 550 F. Supp. 1136 (W.D. La. 1982), the district court

granted the Department's motion for summary judgment dismissing challenges to the Secretary's records access rule, 29 C.F.R. 1910.20, and internal procedures rule, 29 C.F.R. 1913.10. The court found the rules to be free of any substantive or procedural error. The Seventh Circuit in *Fire Equipment Manufacturer's Ass'n v. Marshall*, 679 F.2d 679 (7th Cir. 1982) cert. denied, 103 S. Ct. 728 (1983), held that manufacturers of fire fighting equipment lacked standing to challenge the Secretary's fire protection standards, 29 C.F.R. 1910.155-165, because the only potential impact on the manufacturers caused by the regulations (loss of profits) was not within the zone of interests protected by the OSH Act.

Similarly, in the enforcement area, the Eleventh Circuit in *R.T. Vanderbilt Co. v. OSHRC*, 708 F.2d 520 (1983), found that a manufacturer, allegedly harmed by a gratuitous finding of the Commission regarding its product, had no standing to appeal that finding contained in a Commission's dismissal of another employer's citation.

Within the past year the Occupational Safety and Health Review Commission redoubled its efforts to reduce its backlog of cases. These efforts resulted in the issuance of a large number of both decisions and briefing orders. Over 40 briefs were filed by the division with the Commission in one 4-month period alone. Major topics included the Equal Access to Justice Act, administrative inspection warrants, and the medical removal protection provisions of OSHA's lead standard.

A new Civil Law Enforcement course was developed by this division and the Chicago Regional Office and presented under the aegis of the OSHA Training Institute. The week-long course will be presented four times a year to OSHA compliance officers.

A new, additional activity has been the commencement of a program for the enforcement of sec. 405 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2301, *et seq.*, which protects trucking industry employees from discrimination because of the employees' protected activities. The program has required the drafting of interpretive rules, rules of procedure, and a program directive for the agency's investigators. In addition, approximately five cases arising under the new statute have been reviewed for merit and for the drafting of findings of fact and orders to be issued by the Assistant Secretary.

Significant legal issues arose in the area of State plans, grants, and contracts as a result of increased OSHA emphasis on consultation and training programs, State enforcement under sec. 18(b) plans, and other grant-funded activities.

A major revision to regulations governing agreements with States for conducting on-site consultation (29 CFR part 1908) was

developed as a proposed rule. *Federal Register* notices were also developed proposing guidelines for employer-conducted safety and health training programs and making additional "New Directions" grants available to nonprofit institutions desiring to provide safety and health services to employees and employers.

Administrative proceedings to grant "final approval" under sec. 18(e) to two State plans were initiated, the first such proceedings ever conducted under OSHA. One informal rulemaking hearing was completed in June and another scheduled for early next fiscal year.

The issue of benchmarks for State plan staffing levels (an issue which has been under litigation since 1974) continued to pose significant legal and administrative problems in a variety of forums. In a 1982 appropriations measure, Congress authorized OSHA to develop new benchmarks based upon an "equivalent staffing" concept. New proposed benchmarks were promptly developed, published in the *Federal Register* for comment, and filed for information purposes with the U.S. District Court for the District of Columbia which retained jurisdiction over the benchmarks lawsuit (*AFL-CIO v. Donovan*, C.A. No. 74-406). Shortly thereafter, Congress rescinded authority for the proposed benchmarks and scheduled extensive hearings on the subject of State staffing levels, thus mooting OSHA's efforts to resolve this long-standing issue. The court, after a hearing, dismissed the benchmarks case, noting that the plaintiff AFL-CIO could readily seek review of future agency action on benchmarks by filing a new action. The AFL-CIO has appealed this dismissal.

Plan Benefits Security

During the fiscal year, the division continued to litigate numerous important cases concerning crucial issues of fiduciary responsibility under the Employee Retirement Income Security Act of 1974 (ERISA) as well as cases involving large actual or potential losses to employee benefit plans.

The U.S. Court of Appeals for the Eleventh Circuit issued an important decision on the scope of ERISA coverage in *Donovan v. Dillingham*, 688 F.2d 1367 (11th Cir. 1982), holding that employers who subscribed to a multiple employer trust (MET) as a vehicle for funding health benefits for their employees established ERISA-covered employee benefit plans. The court concluded that such a plan was established if, in the particular circumstances, a reasonable person could ascertain the intended benefits, a class of employee beneficiaries, the source of financing, and procedures for receiving benefits. In so holding, the court distinguished an

earlier decision which appeared to limit ERISA coverage in such situations.

The Ninth Circuit, in *Donovan v. Mazzola*, 4 Employee Benefit Cases (BNA) 1865 (9th Cir. 1983), affirmed a district court decision holding that pension fund trustees committed numerous serious ERISA violations and ordering sweeping relief. The court held that in making real estate loans and buying a feasibility study, the trustees failed to follow proper procedures. The court also found that the loan from the pension plan to a related convalescent fund was made at too low an interest rate and was a prohibited transaction and that the trustees paid too much for the feasibility study. The court affirmed the district court's award of relief, including restitution by the trustees to the pension plan of \$400,000 in losses, appointment of an investment manager for a 10-year period, and posting of an indemnity bond in the amount of \$1 million to insure the plan against future losses. The court also upheld the district court's finding that the trustees were in contempt of court for failing to post the bond within the time period allowed by the district court's judgment.

In *Donovan v. Bierwirth*, No. CV 81-3408 (E.D. N.Y. June 3, 1983), the Department alleged that trustees of the Grumman Corporation Pension Plan violated ERISA by using plan assets to acquire Grumman stock to thwart a takeover attempt by LTV Corporation. On a motion by the trustees alleging their entitlement to summary judgment on the ground that the plan had suffered no loss, the district court held that if the evidence demonstrated that the trustees had purchased the stock at a price above its fair value and later sold the stock at a price above that paid, they would be liable for the amount the plan paid in excess of fair value, plus the additional income that the plan would have earned on the amount paid had it been invested otherwise, less any profit actually realized by the purchase and resale.

Donovan v. Bryans, 566 F. Supp. 1258 (E.D. Pa. 1983), involved the failure of fiduciaries to attempt to collect loans made by the Finest, Inc. Profit Sharing Plan totalling approximately \$66,000 which went into default and the fiduciaries' approval of a loan to a third party who they knew would turn the money over to the plan's sponsor corporation. The court held that the third party, who served as a conduit for the loan between the plan and the sponsor corporation, was liable (together with the fiduciaries) for the amount of the loan since he actively collaborated with the fiduciaries to effectuate a transaction which violated their duties under ERISA.

In *Donovan v. Simmons*, Nos. 83-1101, 83-1115 (C.D. Ill. May 13, 1983), the Department alleged that plan fiduciaries were

attempting to use plan assets to aid parties in interest who were attempting to take over other corporations. The district court issued a preliminary injunction in a related private suit in which the Secretary intervened, finding that the plaintiff had made a sufficient initial showing that the fiduciaries' actions violated ERISA to warrant relief.

Donovan v. Mercer, No. 4-79-390-K (N.D. Tex. May 27, 1983), involved a pension plan fiduciary who made loans of plan assets totalling approximately \$300,000 to entities he owned. The court found that these loans constituted prohibited transactions and ordered restitution to the pension plan of the loan monies with interest. The court also permanently enjoined the fiduciary from serving as a fiduciary of the plan (or of any other plan for 5 years) and continued the appointment of an independent trustee.

Several cases were settled by consent order or settlement agreement resulting in large recoveries to various plans. Approximately \$1.5 million was restored to the Metal Industries, Inc., Retirement and Profit Sharing Plans by trustees and affiliated corporations to whom the money was loaned. In *Donovan v. Opatut*, No. 83-553 (D. N.J. Feb. 18, 1983), trustees of an employee stock ownership plan were ordered to repay almost \$1 million in loans and accumulated interest which they had caused the plan to make to them. *Donovan v. Nave*, No. 82 C 2210 (N.D. Ill. Mar. 8, 1983), a case in which the trustees of certain union pension and welfare plans employed the union as a service provider for the plans without detailed records of services and payments, resulted in the union's reimbursing the plans a total of \$150,000 and the requirement of separate staffing for plan administrative functions. In *Donovan v. Leigh*, No. 81-0089T (D. Mass. Aug. 3, 1983), a fiduciary who had been serving as real estate advisor to a plan agreed to restore \$205,000 which he had received as consideration in connection with real estate investments the plan made in violation of ERISA.

In *Huff v. Donovan*, Civ. Action No. H-82-1369 (S.D. Texas, Apr. 7, 1983), the denial by the Department of an application for an administrative exemption from ERISA's prohibited transaction provisions was unsuccessfully challenged on the ground that the Department's decision was not supported by "substantial evidence." The court, in granting the Department's motion for summary judgment, held that the proper standard is whether the Department acted arbitrarily or capriciously in denying the application.

During the past year, several significant cases were filed. In *Donovan v. Wheeler*, No. 82-640L (D. N.H. Nov. 21, 1982) and *Donovan v. McCartney*, Nos. 83-147L, 83-170L (D. N.H. April

1, 1983), the Department is alleging that the trustees of pension funds violated ERISA by making loans at below market interest rates in order to induce the borrowers to hire contractors employing union members. In *Donovan v. Ashplant*, No. 83-CIV-1455 (S.D. N.Y. Feb. 24, 1983), the Department sued fiduciaries of the profit sharing plan of a now-bankrupt company alleging that they violated ERISA by investing approximately half of the plan's assets (\$400,000) in sponsor treasury stock. In *Donovan v. Harper*, 83-51 CIV-FTM-10 (M.D. Fla. Apr. 28, 1983), the Department filed suit alleging that trustees, who were also participants of a profit-sharing plan, violated ERISA by failing to properly value 206 acres of real estate and other plan assets before paying lump sum benefits to plan participants upon the plan's termination and thereby unlawfully enriching themselves at the other participants' expense by more than \$1 million.

In *Donovan v. Cody*, 568 F. Supp. 360 (E.D. N.Y. 1983), the court found that the trustees of a New York Teamsters pension plan had acted imprudently in making a \$2 million loan to a Chicago area bank holding company. The court has scheduled a further hearing on the issue of relief, which could include repayment of more than \$2.5 million in losses (principal and interest) to the plan as well as removal of defendant trustees.

The division was also involved in departmental regulatory and legislative ERISA initiatives. During 1983, the division worked closely with the Pension and Welfare Benefit Program and other offices in the Department to provide support to the Administration in developing positions on a number of pension equity issues of importance to women. These efforts culminated in the Administration's introduction of a bill which would amend ERISA in several respects in order to help women earn pensions and to assure that they will share in pensions earned by their spouses. The division has also been actively involved in developing the Administration's position with respect to "unisex" actuarial tables as well as in developing its response to the Supreme Court's decision in *Arizona Governing Committee v. Norris*, 103 S. Ct. 3492 (1983).

On December 13, 1982, the Interagency Task Force on Single Employer Legislation transmitted its final options paper to the White House. The Task Force was established to study the financial problems facing the Pension Benefit Guaranty Corporation (PBGC) as a result of: (1) inadequate premiums, and (2) the present system of voluntary pension plan terminations, which allows employers to transfer large unfunded liabilities to the PBGC. The legislative options and recommendations contained in the Task Force's final paper provide the basis for the Administration's position with regard to current legislative proposals in this area. The

division was actively involved in developing the final recommendations and continues to be involved in Administration efforts to support passage of a single employer bill.

The division has continued work on deregulatory action to reduce reporting burdens under ERISA. On April 26, 1983, the Department published a proposed regulation which would provide plan administrators with an alternative means of complying with the statutory requirement to furnish, at 5-year intervals, an updated summary plan description (SPD) to plan participants and beneficiaries for those plans which have adopted amendments during the 5-year period. This proposed regulation could save American businesses, in fiscal years 1983 and 1984, over \$215 million and 11 million work hours. In addition, on January 11, 1983, the Department adopted a final regulation deferring the then-current due date required by ERISA for filing and distribution of an updated SPD. This amendment also contained parallel deferral provisions with respect to ERISA's requirement that an SPD be furnished, even if there have been no amendments to the plan, after 10 years.

The division has also taken a central role in developing several class exemptions which improve investment opportunities for plans and remove ERISA impediments to investment decisions. On January 7, 1983, the Department published a notice granting Prohibited Transaction Class Exemption 83-1. This exemption expands upon, and supersedes, Prohibited Transaction Exemption 81-7, which provided an exemption from the prohibited transaction provisions of ERISA for certain transactions related to the origination, maintenance, and termination of mortgage pool investment trusts (mortgage pools), and the acquisition and holding of mortgage-backed pass-through certificates issued by mortgage pools. PTE 83-1 retains the structure of PTE 81-7, but expands upon the relief provided in that exemption in two ways. First, PTE 83-1 extends exemptive relief to mortgage pools containing loans secured by mortgages or deeds of trust other than first lien loans. Second, PTE 83-1 provides relief for forward delivery commitments by employee benefit plans. A forward delivery commitment is an agreement to purchase or sell a pool certificate which will be delivered at an agreed upon future date. PTE 83-1 is the final portion of the work of the Department's Housing Task Force acting pursuant to recommendations of the President's Commission on Housing. The exemption, which is retroactively effective to January 1, 1975, further eases the way for prudent plan investment in the residential housing market.

In addition, on December 21, 1983, the Department published a proposed class exemption from certain restrictions of ERISA for

transactions entered into on behalf of an employee benefit plan by a qualified professional asset manager (QPAM). The QPAM must meet specified financial standards as well as be independent of the plan and the person with whom it is dealing. This exemption, which is a major deregulatory project, is designed to provide broad exemptive relief for financial institutions in their management of plan assets for nonabusive investment decisions. The Department also published, on Dec. 3, 1982, a proposed class exemption which would permit an insurance company to utilize its affiliates to effect or execute securities transactions in order to recapture brokerage commissions for the benefit of employee benefit plans whose assets are held in pooled separate accounts managed by the insurance company. In 1979, the Department granted Prohibited Transaction Exemption 79-1, which allows persons who serve as fiduciaries of employee benefit plans to effect securities transactions for those plans under certain circumstances. This proposal is designed to continue the protection of plan participants while alleviating difficulties which have been encountered by insurance companies in complying with PTE 79-1.

Finally, the division has been involved in pending regulatory projects, including those which will define the term "plan assets" and further facilitate investment decisions by financial institutions on behalf of employee benefit plans.

Special Appellate and Supreme Court Litigation

During the past year, several of this division's cases were decided by the Supreme Court. Three of the cases arose under the Longshoremen's and Harbor Workers' Compensation Act (LHWCA).

In *Director, OWCP v. Perini North River Associates*, No. 81-897 (Jan. 11, 1983), the Supreme Court agreed with the Government that all employees who work on navigable waters and would have been covered under the LHWCA, as originally enacted in 1927, remain covered as persons engaged in "maritime employment" under the current amendments. In another case, *Morrison-Knudsen Construction Co. v. Director, OWCP*, No. 81-1891 (May 24, 1983), the Court ruled in favor of the Government finding that employer contributions to union trust funds for health and welfare, pension, and training are not "wages" for purposes of computing compensation benefits. And in a third LHWCA case, *Pallas Shipping Agency, Ltd v. Duris*, No. 82-502 (May 23, 1983), the Court upheld the Government's position that acceptance of voluntary compensation payments by an injured longshoreman did not give rise to the assignment of his claims against third parties.

The Supreme Court also decided two cases involving the Employee Retirement Income Security Act (ERISA). In *Shaw v. Delta Airlines, Inc.*, No. 81-1578 (June 24, 1983), consistent with the Government's view, it was held that ERISA preempts New York's Human Rights Law to the extent it prohibits employment practices that are lawful under title VII and that ERISA does not preempt the State's Disability Benefits Law, which requires employers to pay benefits to employees unable to work because of nonoccupational injuries or illness.

But, in *Franchise Tax Board v. Construction Laborers Vacation Trust*, No. 82-695 (June 24, 1983), the Court did not rule on the Government's argument that ERISA preempts a State law providing for a levy on the assets of a welfare benefit fund to satisfy the State tax liabilities of participants in the fund. Instead, the Court held, contrary to the Government's position, that the federal courts did not have jurisdiction to consider the question in the circumstances of that case.

The division has two cases pending before the Supreme Court which will be argued during the October 1983 term. *Lone Steer, Inc. v. Secretary of Labor*, No. 82-1684, presents a challenge to the constitutionality of the administrative subpoena provisions of the Fair Labor Standards Act. *Local No. 82 v. Crowley*, 83-432, arises under the Labor-Management Reporting and Disclosure Act (LMRDA) and involves the question whether a district court may order a new election under title I of the LMRDA or whether, as the Government contends, that relief is available only to the Secretary under title IV of the act.

The division also received decisions in several important cases litigated in the courts of appeals. The United States Court of Appeals for the Seventh Circuit, in *Donovan v. Federal Clearing Die Casting Co.*, 695 F.2d 1020 (1982), agreed with the Secretary that evidence of safety violations discovered by OSHA inspectors pursuant to an invalid search warrant that they reasonably and in good faith believed was proper should not be suppressed in administrative enforcement proceedings. This ruling enhances OSHA's ability to enforce the Occupational Safety and Health Act whenever evidence is collected pursuant to a search warrant obtained in good faith, but ultimately ruled to be invalid.

In another OSHA case, *Donovan v. OSHRC*, No. 82-4171 (2d Cir. July 19, 1983), the Second Circuit upheld the Secretary's authority to settle OSHA citations with employers, except as to the reasonableness of the abatement period, over the objections of affected employees and without approval of the Occupational Safety and Health Review Commission. The identical issue is being litigated in several other courts of appeals, and a similar issue

under the Federal Mine Safety and Health Act is being handled by the division in a District of Columbia Circuit case, *United Mine Workers of America v. Donovan*, No. 83-1519 (D.C. Cir. Sept. 20, 1983).

The division successfully defended a challenge to the constitutionality of the reports required by the LMRDA of persons who attempt to persuade employees regarding the exercise of their collective bargaining rights in *Master Printers Association v. Donovan*, 699 F.2d 370 (7th Cir. 1983). A petition seeking review by the Supreme Court has been filed and, along with another challenge to the same LMRDA reporting requirements in the Fourth Circuit, *Master Printers of America v. Donovan*, No. 82-1990, is being litigated by the division.

The division also won an important victory in *Atlantic County v. Department of Labor*, No. 82-3081 (3rd Cir. Aug. 25, 1983), which concerned the Secretary's authority to recoup millions of dollars in misspent grant funds disbursed under the Comprehensive Employment and Training Act of 1973. The Third Circuit held that the act itself must be construed to provide such authority. The division is also litigating this issue in several other courts of appeals.

Finally, in *Building & Construction Trades Department, AFL-CIO v. Donovan*, 72 F.2d 611 (D.C. Cir. 1983), the court of appeals upheld the vast majority of the Secretary's revised Davis-Bacon Act regulations. It approved the new regulations: (1) eliminating the "30 percent rule" for determining the prevailing wage rate, (2) excluding nearby urban area wage data from rural county wage determinations, (3) excluding Federal projects from prevailing wage surveys, and (4) expanding the permitted use of semiskilled helpers supervised by journeymen. The court disapproved part of the "helpers" regulation and the "weekly certification of compliance" regulation. This division had primary responsibility for the Department's role in the case and worked with the Division of Fair Labor Standards and the Justice Department in preparation of the briefs.

Special Litigation

During the past fiscal year, the Special Litigation Division, formerly known as the Special Litigation Task Force, was established as a permanent organization in the Office of the Solicitor to provide a central point for resources for the planning, coordination, and direction of unusually complex or sensitive litigation. This litigation requires, in addition to normal professional resources, close supervision at a high level as well as sophisticated litigation support, including audit capabilities and computer-assisted information management. The following are some of the significant

developments that occurred during the fiscal year in the several cases undertaken by the Special Litigation Division to enforce the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) in connection with the Central States, Southeast and Southwest Areas Pension and Health and Welfare Funds (the Teamsters' Central States Funds) and the Southern Nevada Culinary Workers and Bartenders Pension Trust (the Culinary Pension Trust).

In September 1982, in *Donovan v. Fitzsimmons*, No. 78 C 342 (N.D. Ill.), the court entered an historic consent decree between the Teamsters' Central States Pension Fund and the Secretary that safeguards the assets of the Pension Fund from future abuses. As a result of that decree, former Attorney General William B. Saxbe has been appointed Independent Special Counsel to the Fund to monitor its activities and to report quarterly to the Department. The consent decree did not resolve the Secretary's claims against certain of the Fund's former trustees and executives, which involve multimillion dollar losses allegedly occasioned by the mismanagement of fund assets.

At present, discovery involving these claims has been temporarily stayed while the court considers a settlement proposed by private plaintiffs in several class actions that have been consolidated with the *Fitzsimmons* case. The Secretary has vigorously opposed the proposed settlement on the grounds that: (1) the fiduciary liability insurance offered to settle the asset mismanagement claims is inadequate, and (2) the settlement does not prevent the former trustees and executives from occasioning similar events in the future.

Nevertheless, the court recently entered an order approving the form of notice of proposed settlement of class action to be disseminated to all participants and beneficiaries. The notice states that if the proposed settlement is approved, it would effectively conclude the Secretary's *Fitzsimmons* case. In response to this order, the Secretary has petitioned the Seventh Circuit Court of Appeals for a writ of mandamus compelling the district court to allow the Secretary to litigate his ERISA enforcement action.

In *Re Morganroth*, No. 81-1574 (6th Cir. Sept. 30, 1983), is an action brought by the Secretary to compel a witness to give testimony in *Fitzsimmons* over the witness' assertion of his Fifth Amendment right against self-incrimination. On appeal the Sixth Circuit remanded the case to the district court for further proceedings to determine whether the witness could bear the burden of establishing an adequate foundation to support the assertion of the privilege.

In *McDougall v. Donovan*, No. 81 C 5891 (N.D. Fla.), the district court granted partial summary judgment in favor of the Secretary, determining that the acquisition of a Falcon jet aircraft by the trustees of the Teamsters' Central States Pension Fund from the Central Conference of Teamsters (CCT) was a prohibited transaction within the meaning of section 406 of ERISA. The Secretary has requested that the CCT be ordered to rescind the purchase and make full restitution to the Fund. The Secretary filed motions for partial summary judgment on the remaining issues of liability.

In *Central States, Southeast and Southwest Areas Pension Fund v. Baron*, No. 78 C 3702 (N.D. Ill.), the Secretary has resisted attempts by the defendant to reinstitute a rejected settlement that was not in the best interest of the Fund's participants and beneficiaries.

As a result of successful pretrial efforts by the Secretary as an intervenor-defendant, plaintiff voluntarily dismissed its claim against the Teamsters' Central States Pension Fund in *I.J.K. Nevada, Inc. v. Robbins*, No. LV-80-186 RDF (D. Nev.), thereby extinguishing a potential \$30,000,000 liability faced by the Fund.

In *Shenker v. Robbins*, No. LV 80-185 (D. Nev.), a companion case to *I.J.K.* in which the Secretary similarly intervened, the final pretrial order was completed and submitted to the court. Trial of the action, in which plaintiff seeks \$50,000,000 in compensation from the Teamsters' Central States Pension Fund, is scheduled to commence next fiscal year.

On December 30, 1982, the Secretary filed *Donovan v. Dorfman*, No. 82 C 7951 (N.D. Ill.), alleging that certain transactions between fiduciaries of the Teamsters' Central States Health and Welfare Fund and Allen M. Dorfman and the claims processing companies he controlled violated the fiduciary provisions of ERISA. In connection with this action and the related case of *Donovan v. Robbins*, No. 78 C 4075 (N.D. Ill.), the court appointed for Dorfman and the controlled companies a receiver with full authority to secure their assets and to ensure the orderly processing of health insurance claims for the more than 500,000 participants and beneficiaries of the Fund. On February 1, 1983, pursuant to an agreement between the Fund and the Dorfman-related defendants, the court entered an order, without objection from the Secretary, approving the deposit of \$10,750,000 into the registry of the court by the Fund for the purpose of purchasing certain assets of Dorfman's companies. These assets were turned over to the Fund immediately and are being held in receivership for the exclusive use of the Fund. The order also specifies that the \$10,750,000 will be reduced by the amount of any judgments entered or settlements approved by the court in the *Dorfman* or *Robbins* actions and that

it is further subject to reduction to the extent the court accepts the Department's claims that the purchase price is too high.

Concomitant with the commencement of *Donovan v. Dorfman*, the Secretary filed an amended complaint in *Donovan v. Robbins* alleging violations of the prohibited transaction provisions of ERISA and joining Dorfman, the claims processing companies, and certain of their shareholders and officers as parties defendant.

Discovery concerning the Secretary's claim in *Donovan v. Schmoutey*, CV-LV-47 RDF (D. Nevada), was completed on Dec. 31, 1982. In addition to yielding over 500 depositions and over 500,000 pages of documents, this discovery phase had an extensive and heavily contested motions practice.

On Jan. 31, 1983, the district court approved a consent decree between six of the seven trustee defendants and the Secretary, resulting in the payment of \$3,700,000 to the Culinary Workers Pension Trust. The case continued against the seventh trustee-defendant. The Secretary's claim against the other remaining defendants, Morris Shenker, and certain companies he owns or controls, was not settled; however, the consent decree specifically preserved all of the Secretary's claims against them.

The trial against Shenker and companies he owns or controls began on May 31, 1983, and was nearing conclusion at the end of the fiscal year. On Sept. 16, 1983, the district court granted the Secretary's motion to dismiss these defendants' counterclaims, seeking monetary damages against the Secretary, and also granted the Secretary's motion to dismiss their affirmative defenses. Following the end of trial, the district court will decide the Secretary's outstanding claims against the seventh trustee-defendant.

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Office of Policy

During fiscal year 1983, the Office of Policy provided staff support for the Secretary's participation in three Cabinet Councils (Economic Policy, Human Resources, and Commerce and Trade). The Office participated in various working groups dealing with interagency issues that affect the Department, briefed the Secretary in preparation for Cabinet Council and Cabinet meetings on those issues, and represented DOL at Cabinet Council meetings. The Cabinet Councils discussed a diversity of topics, including unemployment, displaced workers, domestic content legislation, immigration, product liability, unemployment insurance, pensions, and job training legislation.

Program Analysis

The Assistant Secretary for Policy chaired the Cabinet Council Working Group charged with the development of employment initiatives in fiscal 1983. The Office of Policy provided staff support on this project, which culminated in the development of the Employment Act of 1983. Among the proposals developed and analyzed by the Office were various options for modifying and extending the Federal Supplemental Compensation (FSC) program, and FSC job voucher program, the creation of a youth opportunity wage, and the use of UI (unemployment insurance) trust fund money for retraining UI recipients.

The Office of Policy participated in the development of a proposal to extend the FSC program; this proposal became law. The Office also prepared a summary of the effects of unemployment insurance on unemployment for a Cabinet Council Working Group. The Office of Policy examined ways to strengthen experience-rating of the UI tax to reduce unemployment as a result of temporary layoffs. The Office is continuing to analyze the relationship between the insured unemployment rate (IUR) and the total unemployment rate (TUR). An understanding of this relationship is a key to UI budgetary and policy issues.

The Policy Office helped develop regulations implementing the new Job Training Partnership Act which took effect on October 1, 1983. The Office also provided departmental representation on the interagency task force on the Southwest border States to assist those States particularly affected by the devaluation of the peso.

The Office worked with ETA and the Treasury Department on an evaluation of existing and proposed tax credit schemes to

encourage either greater aggregate employment or the employment of certain groups with high unemployment rates. The study examined the economic impact of the various targeted tax credits on employer hiring actions and on employment.

In addition to assisting other agencies in developing and analyzing ERISA regulations, the Office of Policy supported the Secretary in his role as Chairman of the Board of Directors of the Pension Benefit Guarantee Corporation (PBGC), principally by its participation in the Secretary's Interagency Task Force on PBGC Legislation.

Options for major structural reform of PBGC's termination insurance system were developed. Throughout the fiscal year, the Office also reviewed proposed PBGC regulations and proposed legislative strategies for closing major loopholes in the insurance system. In addition, it advised on other major policy matters that came before the PBGC Board.

The Office also assisted with development of the Administration's bill to improve women's equity in pensions. Working with representatives of the other members of the Cabinet Councils on Legal Policy and Economic Affairs, the bill would make several changes that would improve women's chances to be vested in private pension plans and to ensure participation in benefits received by a spouse. In addition to these other pension-related activities, the Office of Policy worked with staff from other Departments to develop the assumptions for the 1982 Old Age Survivors Disability Hospital Insurance Trustee's reports.

Regulatory Analysis

The Office of Policy also played an important role in the operation of the Secretary's Policy Review and Coordinating Committee (PRCC). The PRCC is the primary process for examining departmental regulatory actions requiring secretarial review. Proposed actions are submitted to the PRCC by DOL agencies for the Secretary's approval at each stage of the rulemaking process. The Office of Policy coordinates the PRCC agenda and provides analysis of the broader policy rationale and the economic impact of the proposals.

The PRCC addressed numerous policy issues, including:

1. OSHA's proposed revision to its Cotton Dust Standard;
2. ESA's final regulations on implementing the Service Contract Act;
3. ETA's regulations implementing the new Job Training Partnership Act;
4. OSHA's final rule on hazard communication;

5. Variety of standards relating to MSHA's coal standards and its metal and nonmetal mines standards; and
6. LMSA's final rule to implement the first-right-of-hire provisions of the airline deregulation act.

The Office provided economic analyses of proposed regulations. Working closely with OMB and with the agencies for the Department, especially OSHA, ESA, and MSHA, economic analyses were developed on major regulatory changes proposed to reduce discrimination under E.O. 11246, to better reflect market conditions in the wage determinations issued under the Davis-Bacon and Service Contracts Acts, and to control hazardous health and safety exposures under OSHA and MSHA. This work was essential to meeting the Department's responsibilities under the Regulatory Flexibility Act and E.O. 12291.

The Office assisted the Secretary's efforts on the Cabinet Council on Legal Policy to address toxic torts issues. Studies were undertaken of the black lung program and the costs associated with it as well as of proposals to compensate persons with other occupational diseases, especially those caused by exposure to asbestos. Related to this, the Office provided policy analyses of various product liability legislative and policy proposals in this area.

The Office worked closely with ESA and SOL to help improve the operations of the Federal Employees' Compensation Act. With the support of other agencies in the Government, a detailed Administration bill was developed to reform the Act, making benefits more equitable and increasing the incentives for rehabilitation and return to work. The bill would also implement several recommendations of the Grace Commission for improving Government operations.

Economic Analysis

The Office of Policy provided analytical interpretation and projections of key economic data to senior Department and Government officials. Analysis of labor force, compensation, and price data originating in the Bureau of Labor Statistics was emphasized; however, the full range of real and financial economic data were monitored and reported. This broad coverage facilitated in-depth analysis of economic issues, such as the strength and sustainability of the recovery, and also permitted a wide range of impact analyses under alternative policy options.

The Office of Policy monitored individual sectors and industries within the economy, in conjunction with increased analysis of macroeconomic activity. This capacity was especially useful in examining the impact of the recession and recovery on various sectors and industries; in analyzing issues such as structural unemployment-

ment and the identification of job training requirements; and in projecting the economic impact of potential strike activity.

The Office of Policy provided assistance to the Secretary in his capacity as a member ex-officio of the Chrysler Corporation Loan Guarantee Board. The Office represented the Department with the Loan Guarantee Board, and evaluated the planning, financial, and operating documents under the terms of the Guarantee Agreement. Particular emphasis was placed on labor-management issues. Chrysler repaid its outstanding Federally Guaranteed Loan and the program has been terminated.

The Office reviewed and analyzed the cost-saving proposals made by the President's Private Commission on Cost Control and prepared legislative briefing papers for the White House. The Office tracked and analyzed the various jobs programs and health insurance programs for the unemployed proposed in the Congress.

Research

The Office of Policy provided analytical support and research guidance to assist agencies in the Department with the design, management, and evaluation of Department of Labor programs. In this capacity the Office reviewed research solicitations and proposals. The Office also provided technical expertise to evaluate the appropriateness of proposed sole source research contracts.

In addition, the Office performed and monitored research of particular interest to the Secretary. This activity involved the preparation of numerous briefing materials and studies including:

- characteristics of the recipients of Federal Supplemental Compensation;
- trends in the employment of minority teens; and
- cyclical variation in the incidence and duration of unemployment spells.

Contract research was undertaken to examine several issues in depth. One such project is to determine patterns of job change in the U.S. economy. The analysis will examine the frequency of job changes with and without intervening spells of unemployment and consequences of job changes in terms of wage growth. This information is needed to determine the extent of frictional unemployment. Another project was initiated to evaluate the extent to which workers who face a risk of occupational disease receive higher wages as compensation for the risk. The similar question of whether workers facing higher risks of temporary and permanent layoff receive additional compensation will also be examined. These analyses are needed to evaluate the adequacy and appropriateness of social insurance programs including Worker's Compensation and Unemployment Insurance.

A project was started to examine patterns of on-the-job training, particularly among young adults. The impact of different varieties of job training (on-the-job, vocational education) on subsequent patterns of earnings and job stability will also be examined. This work is relevant to evaluating the potential effects of subsidization of various training activities. Work was also initiated to explain trends in the youth labor market, particularly the relative decline in the employment of minority teens in recent years.

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Office of the Assistant Secretary for Administration and Management

A major program emphasis in OASAM in fiscal 1983 was the implementation of Reform '88, the President's Management Improvement Initiative. Within OASAM, the Comptroller was designated as the Department's senior official for coordinating Reform '88 activities internally and with the Office of Management and Budget (OMB). In addition to serving as project manager for several of the major initiatives such as cash management, debt collection, internal control, and travel management, the Comptroller provided technical assistance to other DOL project managers and agency heads in their efforts to cooperate with the President's mandate for further economy and improved efficiency. Implementation plans were developed for cash management, debt collection, internal control reviews, and personnel/payroll improvements. Legislatively mandated cost controls were also implemented, including the Prompt Payment Act and the Federal Managers' Financial Integrity Act.

The electronic mail communications system was expanded in DOL for Reform '88 reporting purposes and since January 1983 has been used by OASAM for making the Department's quarterly progress updates to OMB.

Continuing its efforts to improve DOL's administrative systems and processes, OASAM enhanced the Procurement Control and Accountability System, the Automated Position Control System, and the Integrated Accounting System. An automated tracking system was also developed to track progress by agency and region toward departmental space management objectives.

Travel agent services were begun at headquarters and plans were made for similar services in major regional offices. To maximize centralized system efficiency, economy, and safeguards while assuring timeliness and accuracy, payroll and voucher payment operations were further decentralized to DOL agencies. The Payroll Operations Handbook was fully revised to incorporate changes necessitated by Treasury or legislative mandates (such as Medicare deductions) and self-initiated system enhancements.

Substantial progress was made in implementing internal control policies and procedures, including the establishment of an Internal Control Policy Board; the development of model performance standards; training on internal control reviews conducted

in conjunction with the Office of the Inspector General for internal control officers and other affected staff; and the performance of internal control reviews based on vulnerability assessments completed in early fiscal 1983.

OASAM directed the development of the Department's Presidential and Congressional budget documents and conducted quarterly financial reviews of DOL agencies' management of resources, emphasizing sensitive object classifications and the Administration's cost savings initiatives.

In fiscal 1983 the Directorate of Administrative Services and Safety and Health Programs (DASSHP) took steps to reduce cost and improve the delivery of administrative services. DASSHP assumed responsibility for managing its headquarters facility, the Frances Perkins Building, effective October 1, 1982. Overall, building operations improved substantially with the delegation of authority to DOL. Building management officials made use of a wide variety of in-house expertise and contractor labor to operate the building more efficiently. The quality of deliverable services was insured through a comprehensive contract enforcement and monitoring system.

An integral component of the building management plan, the energy management program, effected an energy saving of \$480,000 without adverse effect upon employee comfort or productivity.

Another initiative developed and implemented in fiscal 1983 was a nationwide space reduction plan. One component of this plan reduced the Department's space holdings by over 423,000 square feet, representing a net cost saving of over \$3.6 million in the Department's space bill. Improved telecommunications management identified opportunities for cost reductions and improved services. In fiscal 1983, FTS costs were \$4.2 million below projections. A telecommunications study was completed which examined the Department's current communications services and made recommendations to improve such services. Subsequently, a telecommunications Task Force was formed to review and revise DOL's telecommunications policy, project future telecommunications needs, and assess the impact of the AT&T divestiture upon DOL's telecommunications operation. In addition, a detailed cost analysis of telephone equipment in the national office was undertaken in order to develop cost-effective replacement strategies.

A purge of over 900 items from the Department's personal property inventory resulted in major warehouse space reductions. The Department realized a saving of \$168,000 in rental expenses from this initiative. And finally, both the Department's vehicle and property management policies were reviewed and revised to ensure greater accountability.

DOL's safety and occupational health program continued to make significant progress in a variety of safety and health areas. Health Services and the educational health program expanded to include programs on treatment of illnesses and injuries for DOL employees. The Employee Counseling Services Program broadened in scope to respond more effectively to both employee and management needs in the areas of alcoholism, drug abuse, financial, emotional/mental, legal, and family problems.

The annual Health Fair featured health testing, lectures, exhibits, and demonstrations on a range of health topics and concerns. The Safety and Health Office disseminated literature and conducted education and screening programs on cancer, hearing, high blood pressure, smoking cessation, diabetes, heart disease, gout, physical fitness, weight control, alcohol, drugs, anxiety and depression, problems with aging parents, and other health-related topics.

A computerized accident reporting system provided timely information on the number of employee accidents (over 5,000 in fiscal 1983) reported by DOL supervisors. This information allowed an in-depth analysis of problem situations resulting in a more successful program of accident prevention.

A 1983 DOL *Safety and Health Planning Guide* was developed and distributed to the national and regional offices. The *Guide* is intended to assist safety and health managers in carrying out the DOL safety policy.

CPR and first aid programs were conducted on a continuous basis during this reporting period.

The Directorate of Personnel Management (DPM) developed a monitoring system to ensure that position management and position classification were being practiced by each agency as a positive step toward controlling escalating personnel costs. During the year DPM monitored the implementation of 16 new position classification standards affecting more than 4,000 positions in the Department. In addition, a position management course for position classifiers and other personnel staff was conducted to further the cost effectiveness of personnel and staffing functions.

As a result of the major reorganization in the Employment and Training Administration (ETA), in which some 1,200 positions in ETA were lost over the past 3 years, and the enactment of the new Job Training Partnership Act (JTPA), DPM reviewed hundreds of ETA positions at both the national and regional levels. DPM sought to ensure effective position management and classification under the new organizational alignment.

During fiscal 1983, over 4,950 employees were trained through the DOL in-house training programs. Included among the

courses offered were those under the Personnel Training Center Program designed to enhance the skills and professional knowledge of DOL personnel staff.

A regulatory review program was introduced in the Department in fiscal 1983 as a mechanism to determine the extent to which the Office of Personnel Management (OPM) and DOL regulations and legal requirements were complied with in effecting personnel actions.

The Directorate of Information Technology (DIT) continued to provide a strong effort to modernize and standardize the technology underlying both data processing and office automation. Procurement was completed for the acquisition of minicomputers for the OASAM National and Regional Offices and the Agency administrative offices, to provide support for data processing and office automation functions. Delivery of equipment began for the installation of the minicomputers. Concurrently, an extensive training program was under way for systems managers and the people who will operate and use the minicomputers.

The Directorate of Management Policy and Systems (DMPS) continued to provide DOL executives and managers with an internal management consulting capability, covering a wide range of areas, to assist in analyzing problems affecting organizational and operational effectiveness.

A program of information resources management (IRM) reviews continued within the Department during the year under the leadership of DMPS. The purpose of the reviews was to evaluate the effectiveness with which information is collected, used, distributed, stored and managed during its entire life cycle. As a result of these reviews, recommendations were made to reduce public burden and costs. DMPS staff conducted several IRM reviews and also monitored reviews conducted by DOL Agency Information Resource Managers achieving dollar savings and reductions in the paperwork burden on the public. Under DMPS leadership, DOL reduced the paperwork burden by 11.76 percent during fiscal 1983 over fiscal 1982, for a cumulative total of 46 percent reduction to its fiscal 1980 base, marking the fifth consecutive year of significant reductions in this area.

An effective DOL Mail Management program contributed significantly to holding down mail costs. The Department was diligent in coordinating mail surveys, orientating support personnel, and instituting a mail management newsletter. Fiscal 1983 expenditures for DOL mail totaled \$7.6 million, approximately \$700,000 below projections.

DMPS staff continued to assist DOL managers and their employees in establishing Employee Participation Groups (EPG).

The process, which is directed toward improving quality of service, reducing costs, and improving communication between employees and supervisors, was successful in improving operations in several DOL components. OASAM regional offices also initiated EPG activities.

The Office of Labor-Management Relations (OLMR) undertook significant actions affecting the internal labor management relations program of the Department. First was the execution of a Memorandum of Understanding with the labor organization representing departmental employees in the field (the National Council of Field Labor Locals). The Memorandum covered 11 subjects, and it clarified and interpreted a variety of topics which had been the subject of grievances. Joint training of managers and supervisors in the regions by representatives of the Department and the union followed adoption of the Memorandum of Understanding.

A second major undertaking during fiscal 1983 by OLMR was the initiation of an evaluation of the internal labor-management relations program at DOL. During the year, two agencies (the Occupational Safety and Health Administration and the Mine Safety and Health Administration) and two regions were evaluated. These efforts provided useful information for improving the operation of the internal labor management relations program.

Both the Department and Local 12 determined that the collective bargaining agreement should not be reopened at the time of its anniversary, and the parties agreed to extend the agreement for 1 year without change. Collective bargaining continued, nevertheless, at a substantial pace with a series of ad hoc meetings concerning reorganizations, training plans, RIF situations, and a multitude of other matters. The number of grievances filed increased during the year; much of this increase was attributable to implementation of the new performance appraisal system required by the Civil Service Reform Act.

The Office of Civil Rights (OCR) refined and expanded its automated Complaint Tracking System which was installed last year. A *Complaints Processing Manual* was published and distributed nationwide to assure consistency and quality in staff handling of external complaints. During the year OCR developed compliance programs for the Occupational Safety and Health Administration and the Mine Safety and Health Administration. New guidelines for conducting on-site post-award compliance reviews of Unemployment Insurance and Job Corps programs were also developed.

OCR sponsored a highly successful equal opportunity national conference for the Job Training Partnership Act (JTPA) recipients

and representatives of public interest groups. An *EO Technical Assistance Guide*, developed and published by OCR, was distributed at the JTPA conference.

Regional OASAM components continued to make significant contributions toward cost reduction and greater management efficiency in regional agencies. Particular attention was given to the Department's initiative to reduce administrative costs for space and telecommunications. Staff efforts continued to be focused on internal controls, debt collection, and the reduction of outstanding travel advances.

One regional OASAM established an automated travel advance information system to enhance the collection of outstanding travel advances. Regional OASAM staff also conducted financial management reviews with regional agency staff in areas such as travel management, debt collection, cash management, and internal controls. The reviews aimed at assisting agencies in the effective use of resources.

In its continuing effort to assist managers in reducing costs, improving the quality of services, and increasing productivity, one regional OASAM expanded its assistance to LMSA in managing a Quality Circle Program. With employee participation in all of the offices within the regional agency, the program had a positive impact on the efficiency of program operations.

Bureau of International Labor Affairs

The Bureau of International Labor Affairs (ILAB) made significant progress during the past year in its dual objectives of promoting the interests of American workers in U.S. foreign policymaking and providing assistance to U.S. foreign affairs agencies on labor and employment policy. The highlights of the year include the most successful International Labor Organization Conference in 25 years; increasing participation by DOL in U.S. trade policy decisions; enactment of the Caribbean Basin Initiative with trade union rights condition for designation; and initiation of a directory of foreign labor organizations.

International Labor Organization

The 1983 International Labor Organization Annual Conference produced dramatic and positive results for the United States. Indeed, the Conference gave the United States a major political advantage over the U.S.S.R. on the human rights issue.

In 1983, the Soviets attacked the ILO's human rights machinery, in part because of its vigorous criticism of Poland's efforts to crush free trade unions. The United States, on the other hand, encouraged active support for the ILO's human rights standards among Free World and Third World delegates, recognizing "cases of progress" in countries such as Bolivia, Uruguay, and Peru for overcoming their problems with ILO standards.

The conference committee dealing with these issues dismissed the attack on the ILO's human rights machinery. Despite strong Soviet opposition, the committee adopted a report censuring Czechoslovakia for political discrimination and criticizing the entire Soviet bloc for denying fundamental trade union rights. At U.S. urging, the Employers' Group demanded a secret ballot, and more than 61 percent of the delegates voted in favor of the committee report in the Conference plenary.

Again in 1983, the Arab countries introduced a resolution condemning Israel for its policies in the occupied territories and in Lebanon. The U.S. position is that these resolutions are outside the ILO's competence and violate established ILO principles of due process. In its campaign to "depoliticize" the ILO, the U.S. gained a narrow but important victory when the Arab resolution, voted upon on the last day of the Conference, was defeated.

There were other DOL accomplishments in the ILO. Delegates to the ILO Governing Body were encouraged to establish a commission of inquiry to investigate violations of trade union freedom in Poland. In consultation with the Departments of State and Commerce and U.S. workers and employers, DOL prepared detailed budget proposals for 1984-85. It reinforced U.S. budget policy in the United Nations by showing where and how to make cuts in order to strengthen high priority program activities. DOL fostered cost effectiveness in the ILO by monitoring and evaluating ILO programs and increasing the use of private sector resources in the ILO. DOL also planned and coordinated two private sector exhibitions as part of the ILO chemical and construction meetings.

International Economic Affairs

The Bureau of International Labor Affairs, in its activities in the area of international economic policy, remained cognizant of the interests of American workers. Through its membership in the various interagency committees charged with trade policy functions, the Bureau acted as follows:

- Reviewed the trade effects of industrial targeting practices whereby countries select certain industries for special government aid (for example, subsidies and trade restrictions) to promote international competitiveness.
- Contributed to the development of U.S. policy on trade in high technology goods and services, including U.S.-Japan discussions on this matter; assisted in the formulation of a U.S. policy on international investment.
- Participated in numerous bilateral trade discussions and in the U.S.-European Community High-Level Consultations covering steel, agricultural trade, and North/South issues.
- Participated in meetings of the OECD Steel Committee focusing on the development of long-term solutions to the problems of international trade in steel.
- Participated in the November 1982 GATT Ministerial meeting.

The Bureau continued as a principal member of U.S. delegations for the negotiation of bilateral agreements on textiles, within the framework of the Multi-Fiber Arrangement. It shared interagency efforts to carry out President Reagan's commitment to study the growth in textile and apparel imports and its effect on the U.S. textile and apparel industry. Additional limits were established on the importing of textile and apparel products from Hong Kong, Taiwan, and Korea (the major suppliers) and an expanded agreement was negotiated with the People's Republic of China, now

the fourth largest supplier of textile and apparel products to the United States. The Bureau was also involved in a special White House Working Group on Textile Enforcement that sought to develop and recommend ways of improving the operation of the U.S. Textile Program.

Import Relief

The Bureau worked actively in several interagency committees that reviewed the U.S. International Trade Commission recommendation to grant import relief under Section 201 of the Trade Act of 1974 to the domestic specialty steel industry. The President decided to grant import relief to the domestic industry for a 4-year period, in the form of increased tariffs for certain products and quotas for certain others. For the three products covered by quotas, the President offered interested foreign nations the option of entering into orderly marketing agreements. The Bureau took part in discussions that may lead to such agreements with Austria, Brazil, Canada, Japan, Spain, and Sweden.

Other import relief cases in which the Department was actively involved included a Section 201 covering heavy motorcycles; Section 301 cases covering steel, a variety of products in the steel sector, and footwear; Section 232 (national security) cases covering industrial fasteners and machine tools, and finally, claims for compensation by Japan and Spain as a result of the import relief action on porcelain-on-steel cookware.

Immigration

In the field of immigration, ILAB continued its participation in formulating U.S. immigration and refugee policy and the coordinating of immigration policy development within the Department. ILAB played a major role in the Interagency Task Force on Immigration Policy and worked actively with the rest of the Administration for the enactment of the Immigration Reform and Control Act of 1983. ILAB also formed an Interagency Working Group (consisting of the Departments of Labor, Agriculture, Justice, and State) on H-2 temporary workers, which, as part of its objective of achieving a more effective program, drafted an H-2 bill establishing the Administration's position on this controversial issue.

ILAB also has the lead role for the U.S. government in international organizations on issues relating to international labor flows. In this capacity, ILAB staff represented the United States on the OECD Working Party on Migration and on the U.S. delegation

to the Intergovernmental Committee on Migration. ILAB also served as an observer at the Spring 1983 intersessional meeting of the U.N. General Assembly Working Group on the Elaboration of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families. The Bureau co-authored the position paper for the U.S. delegation to the Fall 1983 session of the working group.

ILAB continued to conduct analyses of the economic, social, and political aspects of legal and illegal migration and refugee movements, both within the United States and internationally.

Advisory Committee

The Labor Advisory Committee for Trade Negotiations and Trade Policy consulted with and advised ILAB and the Office of the U.S. Trade Representative on issues of concern to labor involving trade negotiations, operation of trade agreements once entered into, and other matters arising in connection with the administration of U.S. trade policy. The Committee included representatives from the AFL-CIO headquarters, seven AFL-CIO departments, 37 AFL-CIO affiliated unions, and four independent unions. A steering subcommittee of the Labor Advisory committee composed of key labor advisors meet monthly for consultations on current trade and related issues.

Foreign Economic Research

DOL's foreign economic research program is designed to determine the effects of foreign economic developments on the earnings and employment of U.S. workers. This includes quantitative analysis of policies affecting international trade, investment and technology transfer, and immigration. The research is often undertaken to meet congressionally mandated studies or requests from other executive branch agencies and is performed by a staff of in-house economists supplemented by outside contractors.

The research studies undertaken during fiscal year 1983 covered (1) the employment efforts of the Generalized System of Preferences; (2) an update of the effects of an expiration of the manufacturing clause of the U.S. copyright law; (3) the effects of remedy options for specialty steel and heavy motorcycles; (4) the effects of countertrade transactions; and (5) the effects of changing energy prices on trade and employment.

The Bureau continued its cooperative work with the Japanese Ministry of Labor. A draft final report of a comparative study of employment adjustment policies in the United States and Japan was completed and transmitted to Japan's Ministry of Labor for review.

An information exchange program between the Department and Japan's Ministry of Labor yielded important information on the Japanese experience in adjusting to technological change in the workplace.

Foreign Labor Affairs

During a meeting between Japan's Minister of Labor, Akira Ono, and Secretary Donovan, it was agreed that the DOL would conduct two seminars in Japan on U.S. Equal Employment Opportunity laws to assist Japanese businessmen considering investments in the United States. These seminars, part of the Department-to-Ministry (DTM) program, were conducted in Tokyo and Osaka in December 1983. In other DTM programs with Japan, the United States began transmitting bioassay test results to the Ministry of Labor's new bioassay laboratory and will soon receive complementary results from Japan. The Department is translating and plans to publicize widely in the United States a comprehensive Ministry of Labor study of the labor market consequences of the use of industrial robots in Japan.

The Bureau of International Labor Affairs participated in the formulation of Caribbean Basin Initiative legislation and sent a fact-finding mission to the Caribbean and Central America to investigate labor-related constraints to foreign investment. These were found to be as follows: (1) inadequate skills training programs, (2) poor labor-management relations, (3) inefficient labor laws, and (4) weak labor ministries.

Following approval of the Caribbean Basin Initiative legislation by Congress, the Labor Department participated in an interagency team that visited many of the countries of Central America and the Caribbean to discuss with government, labor and business sectors the legislation and the process of designating those countries for the tariff-free treatment provided by the legislation. One of the criteria for designation was the "extent to which workers in each country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively." This is the first time that foreign labor rights has been made an explicit factor in determining eligibility for U.S. programs.

Production of a *Directory of Foreign Labor Organizations* was started during the year. The *Directory* will list foreign labor federations, their affiliates, and other independent unions in some detail. Once completed, the *Directory* will cover approximately 150 countries.

American Labor Attachés

The Departments of State and Labor held conferences in New Delhi for Foreign Service Labor Attachés stationed in the Near East, South Asia, and Europe, and in Panama for those assigned to Latin America and the Caribbean. At the urging of the Department of Labor, the Foreign Service promotion system was modified to provide for a separate promotional category for senior Labor Attachés. The Department is continuing participation in the management of the Foreign Service through the Board of the Foreign Service and the Board of Examiners which were reconstituted under the Foreign Service Act of 1980. The Department also participated in the Foreign Service promotion panels.

International Technical Cooperation

During the past fiscal year, ILAB continued to provide technical cooperation services to developing countries under funding provided by the Agency for International Development (AID). ILAB provided short-term technical assistance missions to Panama, Argentina, Honduras, Jamaica, and Egypt. ILAB also furnished AID-funded long-term technical assistance services to Jamaica, Egypt, Indonesia, and AID/Washington.

In addition to its own experts, ILAB recruited advisors from the U.S. public and private sectors to provide technical assistance in areas such as labor market information, manpower projections, vocational education, and manpower planning.

The Saudi Arabian Vocational Training and Construction Project (VOTRAKON) continued to be ILAB's largest foreign-financed technical cooperation project. This project, funded entirely by the Saudi Arabian Government and now in its seventh year, emphasized the upgrading of vocational training as well as construction of new training and related housing facilities. The more than 50 long-term U.S. advisors were responsible for training Saudi "counterparts" and providing direct assistance in establishing a sound foundation for all aspects of the kingdomwide vocational training system.

Field testing and further development continued during the fiscal year on the curriculum materials for eight skill trades. Equipment and furnishings were specified for all facilities under construction, including the new Instructor Training Institute (ITI). Contracts for the development of eight ITI curricula were awarded to U.S. contractors, and a course for pedagogical training of ITI trainees was midway in its U.S. development. Curricula for automotive and diesel mechanics were completed by San Jose State University.

Progress has continued in the development of an On-the-Job Training system, with emphasis on the cities of Riyadh, Jidda and Dammam. A six-section OJT plan was defined and U.S. advisors worked closely with Saudi personnel in its implementation. Major concerns of the OJT program continue to be the development of job certification standards, standardization of position titles and job performance standards, involvement of industries in Government/industry cooperative programs for training, definition of a kingdomwide information network, and the development of a comprehensive plan for the training of firstline training supervisors.

International Visitors

Throughout the year, the Bureau of International Labor Affairs continued to provide programming services to AID and the International Labor Office. AID-financed programming was arranged for 76 trade union officials from 37 countries. Thirty grantees under ILO auspices were handled.

ILAB coordinated the activities of the 650 international visitors to whom the Department was host in fiscal 1983.

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Women's Bureau

Most of the Bureau's activities during the year reflected cooperative or partnership efforts with other Federal agencies, educational institutions, national and community organizations, and the private sector. The Bureau developed linkages with these diverse groups to maximize the impact of its programs. Priorities centered on initiatives to help economically disadvantaged women become gainfully employed, and to expand employer-sponsored child care as a family support system needed by increasing numbers of working mothers.

The varied activities and accomplishments of the Bureau are summarized under four topics: programs to improve and expand employment opportunities, economic research initiatives, international activities, and information sharing.

Programs to Improve and Expand Employment Opportunities

To increase the entry of women into more profitable and varied employment, especially in nontraditional jobs, new technology occupations, and entrepreneurship, the Bureau continued several programs and launched new efforts. Pilot projects were undertaken, with the support of funds from the Employment and Training Administration, to demonstrate effective ways to address women's diverse needs related to training, employment, and support services. A byproduct of the demonstration efforts will be models that can be widely disseminated to stimulate development of similar programs. Major initiatives are described below.

Employer-Sponsored Child Care Systems—Recognizing that the critical need for reliable and affordable quality child care continues to be a barrier to improving training and employment opportunities for large numbers of women, the Bureau continued its national and regional thrust, begun in fiscal 1982, to expand employer-sponsored child care. Activities undertaken to achieve this objective included the development of pilot projects to demonstrate a variety of options and services which respond to child care needs, technical assistance to employers and other individuals and groups interested in addressing the child care issue, and the dissemination of information relevant to the need for and responses to child care.

The joint Women's Bureau-Rockefeller Foundation project, funded in fiscal 1982, moved into its implementation phase. The four community-based organizations carrying out this pilot effort—located in Providence, R.I.; Washington, D.C.; Atlanta, Ga.; and

San Jose, Calif.—are providing training and job placement (Foundation funded) to economically disadvantaged women who are single heads of households, and are developing techniques for providing child care services to this client group (the Bureau-funded component of the project). In addition to addressing both the employment and child care needs of female-head families, the organizations are endeavoring to increase the awareness of employers as to the effects of parenting responsibilities on the productivity of employees, and are gathering data on labor market barriers confronting single heads of households.

During the year, the four experimental programs served 948 women and their children—a total of 1,353 under age 13.

As a result of regional efforts to promote employer-sponsored child care systems, a number of services were created: Three hospitals established onsite centers; one corporation adopted a liberal voucher system for its 1,400 full-time employees; and three firms instituted information and referral systems, a service offered to approximately 17,000 employees of those companies.

Responding to public demand for information, the Bureau distributed a total of 30,300 copies of its publications, "Employers and Child Care: Establishing Services Through the Workplace," "Child Care Services Provided by Employers and Unions in the United States," and "Federal Day Care Legislation." The publication on legislation was translated into the Spanish language.

The Bureau also provided technical assistance and printed materials to help implement the White House private sector initiative on child care.

Production was begun on a videotape that depicts corporate America's response to the child care need. The tape will be used by the Bureau, and made available to other agencies and organizations, to promote employer-sponsored child care.

Job Fair/Talent Bank Initiative—With emphasis on involving the private sector in a direct employment effort, the Bureau held a series of job fairs, followed by the establishment of talent banks lasting up to 1 year. The initiative sought to help the women participants, most of whom were unemployed or in low-wage jobs, to assess their job skills, prepare for interviews, learn about the types of jobs or potential opportunities available in their local areas, and compete for job openings through the talent banks. Although some women received offers for employment at the job fairs, employers were not expected to make such commitments at that time but were asked to submit job vacancies to the talent bank.

Eleven job fairs were held in nine regions. More than 6,800 women attended the workshops and preparatory counseling sessions. The talent bank phase of the initiative was still operating

in eight cities at the close of fiscal 1983. More than 400 women had been placed in jobs, and a number of others had been referred to training programs. The types of placements included clerical, sales, and service jobs as well as professional and managerial positions.

WINC (Women in Nontraditional Careers)—To create awareness among young women of the many career options available and to encourage consideration of those which enhance their personal and economic future, the Bureau promoted the institution of its WINC program in school systems. WINC, a school-to-work transition model directed toward high school students, incorporates three key elements: training of school staff to increase their sensitivity to the need for nontraditional career planning and how occupational choice may affect lifetime earnings potential; classroom instruction to provide students with occupational and labor market information; and nontraditional job exploration in the community.

The effectiveness of the WINC model was demonstrated in the public school system in Portland, Ore., during 1978 to 1980. Based on the success in Portland, the Bureau held workshops in Atlanta, Chicago, Dallas, and Scottsdale (Ariz.) during fiscal 1983 to inform school administrators, teachers, counselors, and others working with youth about the WINC model, and to encourage school systems to institute the concept. Nearly 100 representatives of school districts and State boards of education participated. In addition, workshops were held for American Indian educators from 17 States and for Job Corps staff of the New York region.

At all of the workshops, the WINC model was well received, and many of the educators expressed interest in implementing all or part of the model. The Bureau established linkages with sex-equity coordinators in the various States to help implement the WINC model, and will continue to promote the project, reaching other regions in fiscal 1984.

Project IDEA (Individual Development and Entrepreneurial Activities)—To address the needs of impoverished rural women in the Mississippi Delta, and to develop a training model for use in similar situations in other areas of the country, the Bureau undertook a pilot effort which provided training in nontraditional skills, such as carpentry and welding, and job placement assistance to women 35 years of age and older who maintain families.

Fifty women had completed training by the end of the fiscal year. Thirty-one of the participants had found jobs, 12 were continuing training, and 7 were seeking placements with local employers. The project, operated for the Bureau by Coahoma Junior College, illustrates an effective partnership effort between

the Federal Government and educational institutions to prepare economically disadvantaged persons to enter the job market.

Project Discovery—Recognizing that outreach programs generally do not serve middle-income minority women who often need assistance when their economic status has been adversely affected, the Bureau launched a pilot project to address the support service needs of these women. The project focuses on the needs of women 35 to 50 years of age who are seeking to enter or reenter the workplace because of divorce, separation, or widowhood; who have lost jobs due to reductions-in-force (RIF's); and who are trying to move out of unfulfilling or dead-end jobs.

Project Discovery consists primarily of workshop sessions encompassing self-awareness, career exploration, transfer of job skills, resource awareness, networking, and exposure to the job marketplace. It is being implemented for the Bureau by the Links, a nonprofit national organization. After the workshop design is pilot tested, it will serve as a prototype for replication by Links chapters and other organizations across the country.

Apprenticeship Training—A nationwide effort to help women gain access to apprenticeship opportunities, which was completed in fiscal 1982, resulted in organized efforts in some communities as well as requests for training in additional areas. In Atlanta, Ga., for example, a coalition comprised of representatives of business, industry, organized labor, and community organizations was formed to provide job readiness, referral, and placement to women in skilled trades apprenticeships and other nontraditional jobs. The Bureau provided technical assistance to this ongoing effort and to other activities around the country aimed toward expanding opportunities for women in apprenticeable occupations.

Responding to a request from the National Association of Women in Construction, the Bureau conducted an apprenticeship training workshop in Fort Lauderdale, Fla. Also, a workshop was held in Richmond, Va., in conjunction with the Virginia State Apprenticeship conference. More than 100 employers, union representatives, vocational educators, and employment and training professionals attended the Richmond conference and contributed resources for an ongoing committee established for followup.

The Bureau maintained its cooperative relationship with the Bureau of Apprenticeship and Training and with the Bureau of Prisons to promote apprenticeship training for incarcerated women. A major accomplishment during the year was a cooperative agreement among Federal and District of Columbia agencies and prerelease centers to help women released from prison continue apprenticeship training or find jobs. While the interagency linkage agreement covers only those women released from the Federal Correctional Institution at Alderson, W. Va., to the Washington, D.C.,

area, it establishes a model for postrelease services that could be extended to all Federal inmates in apprenticeship programs.

High-Technology Training—A project was implemented during the year to demonstrate the feasibility of short-term training (6 months) in a community college setting as a means of increasing the employability of low income female heads of households. The Bureau contracted with Spokane (Wash.) Community College to provide training to 30 women in such skills as electronics assembly, microprocessing, and word processing. The program also included workshops covering support skills such as self-esteem/assertiveness and job search techniques to enhance employability and retention in jobs.

All participants had one to three children, and more than half of the women were between 25 and 35 years of age. Most of them were receiving public assistance, unemployment benefits, or social security. While the participants in this short-term program did not complete all requirements of community college certificate programs, the training did increase employability. By the end of the fiscal year, the 30 women had completed the 6-months' training and 20 had obtained employment. The remainder were seeking jobs with the assistance of the community college.

Small Business Initiatives—Working often in concert with the Office of Women Business Ownership in the Small Business Administration, the Bureau continued to encourage women to consider entrepreneurship as a viable career option. Several projects were designed to help women gain skills and access to resources needed to start their own business.

Start on Success (SOS) Program—Supported jointly by the Bureau and the Dayton-Hudson Foundation, with contributions from the private sector, this program offered training in business skills to low income mature women, many of whom were displaced homemakers. The project, carried out by the Door Opener organization in Mason City, Iowa, reached nearly 100 women. Two months after completing the program, participants were operating businesses such as fabric shops, gift and floral shops, and typing and record-keeping services.

Displaced Homemaker Program—A "how-to" manual on funding alternatives for displaced homemaker programs focusing on entrepreneurial options such as home health care businesses was developed for the Bureau under a contract with the Displaced Homemakers Network, Inc. The guide identifies types of businesses likely to succeed in a given community and discusses preparation of business plans, financial resources for new businesses including nonprofit groups,

and other subjects relevant to business operation and ownership. The manual will be considered for publication and dissemination in fiscal 1984.

Toward the Implementation of JTPA (Job Training Partnership Act)—During the year of transition from CETA to JTPA, the Bureau was active throughout the country informing groups about the new training system and how and why it should serve women equitably. The Bureau developed a publication highlighting those provisions which have special significance for women and distributed about 20,000 copies of the booklet, "Summary and Analysis of the Job Training Partnership Act of 1982, With Selected Provisions of Interest to Individuals and Groups Concerned About Employment and Training Opportunities for Women."

Information was also communicated through briefings and workshops initiated by the Bureau's regional offices, with a regional team of appropriate Federal, State, local, and private sector participants.

Economic Research Initiatives

Near the end of the year, the Bureau let contracts for the development of research information which will enhance the body of knowledge related to women's employment. The five areas under study are the impact of technological change on women's employment opportunities, the assessment of the transferability of military skills to civilian employment of women veterans, career transitions of women in professions, the impact of job dislocation on women, and employment issues related to immigrant women.

The information gained from these initiatives will enable the Bureau to direct attention toward policies and programs that address specific employment problems unique to women.

International Activities

The Bureau had a prominent role in international activities addressing employment and training issues affecting women around the world. The Bureau director, representing the U.S. Government, participated in meetings of the Organization for Economic Cooperation and Development (OECD) in Paris and was a member of the U.S. delegation participating in meetings of the United Nations Commission on the Status of Women, held in Vienna. The Bureau also participated in meetings of the International Labor Organization (ILO) in Geneva.

The Bureau director, an elected vice chair of OECD's Working Party No. 6 on the Role of Women in the Economy, met with the Working Party to discuss studies on migrant women, social

security, single parents, and high technology. The Working Party suggested that issues having impact on women as workers be integrated into all OECD committees and programs and that women be represented at all levels of OECD staffing, including the policymaking positions.

The U.N. Commission on the Status of Women, the preparatory body for the 1985 world conference on the U.N. Decade for Women, met to begin preparing for the conference, tentatively planned to be held in Nairobi, Kenya. The U.S. delegation along with representatives of Western European and other countries discussed a provisional agenda for the conference, which the Commission adopted, and established guidelines for the information program of the conference.

The Bureau deputy director was a U.S. representative at ILO meetings. Major subjects discussed were equality and equity for women, new technology, and trade union rights.

Information Sharing

The dissemination of information about women's participation in the labor force and on programs to expand their employment opportunities was a significant activity of the Bureau. The primary communications media used were publications, news releases, articles, and speeches.

In response to a large volume of requests, publications were distributed on women's occupations, earnings, education, and related factors, and on Federal and State laws affecting their employment and economic status.

There was great demand for the revised publication, "A Working Woman's Guide to Her Job Rights." Three months after the publication was issued in midyear, the full supply of 33,000 copies had been distributed singly in response to requests; 12,000 additional requests had been received by the end of the fiscal year. A statistical fact sheet, "20 Facts on Women Workers," was updated and widely disseminated. A new publication produced by the Bureau was the "Economic Recovery Tax Act of 1981: Special Provisions of Interest to Women." About 17,000 copies were distributed in response to requests.

During the year, the Bureau distributed approximately 110,000 publications to individuals and organizations, and furnished display materials for numerous conferences.

In addition to publications, the forum of conferences, seminars, and workshops was used to communicate information on policies, programs, and major issues relevant to women's employment opportunities. The Bureau director and deputy director made approximately 90 presentations, most of which were keynote speeches

at major conferences; other staff—national and regional—presented information as main speakers and panelists at meetings and workshops.

The Bureau maintained its liaison with vast numbers of women's organizations, State and local commissions on the status of women, and labor union women, among others—creating and strengthening networks for the exchange of information and ideas. Representatives of these and other groups, which comprise one large segment of the Bureau's constituency, came together in an information-sharing session at the Bureau's request. The purpose was to apprise them of the Bureau's current and planned program activities, provide an opportunity to hear their concerns related to women's employment, and elicit their continuing cooperation and support.

To enhance the Bureau's capability in the collection and dissemination of statistical data on women's labor market activity, a computerized system was installed, allowing the Bureau immediate access to BLS/NIH data. Additionally, a manual was produced to provide instructions to Bureau staff on the use of the Labstat data information and retrieval system.

Office of Inspector General

For the Office of Inspector General (OIG), fiscal year 1983 was a year of transitions. A new Inspector General was sworn in, the Office introduced new computer technology to its field audit and investigative work, and it concentrated major resources on the Department's transition from the Comprehensive Employment and Training Act (CETA) to the new Job Training Partnership Act (JTPA) program. Indictments and convictions resulting from fraud investigations reached a record high, and organized crime and racketeering cases continued to produce impressive results.

The Office of Inspector General worked closely with the Employment and Training Administration (ETA) to develop implementing regulations to help ensure proper program and financial accountability for the JTPA program. Before the October 1 JTPA implementation date, an audit was conducted of each of the 57 States and entities that will receive JTPA funds. This effort was designed to evaluate the development of financial control and program oversight systems. Reports were issued to each audited entity and to the Employment and Training Administration.

The Office assisted ETA in the closeout of CETA by providing technical assistance on audit matters and the safeguarding of assets. Through coordination with ETA, the OIG sought to ensure that prime sponsors made appropriate audit arrangements during the final year of CETA operations. A special purpose review began of selected CETA prime sponsors to identify and verify assets and liabilities. Information from this review will be used to ensure that assets and liabilities are properly identified, transferred to JTPA where applicable, or returned to the Federal Government at program termination.

As part of ongoing efforts to evaluate major aspects of ETA's financial management systems, the Office completed an audit of ETA's management of appropriations provided to State Employment Security Agencies for operating the Unemployment Insurance and Employment Service programs. Based on OIG recommendations, ETA plans to redesign its financial management systems with the goal of improving controls of year-end obligations and the accuracy of reports it provides to the U.S. Treasury.

Because recent studies have shown that significant Unemployment Insurance overpayments result from fraud or error, State agency benefit payment control functions were audited. ETA began

correction action even before OIG completed field work, and initiated a Benefit Payment Control Oversight Committee to evaluate and address benefit payment control issues.

OIG also performed a 12-State audit of unemployment insurance tax collection operations covering five tax operation functions, including cash management and field audit programs. Since the solvency of unemployment benefit trust funds depends on employer taxes, the audit complements the benefit control audit. Initial findings of this audit indicate potential interest in excess of \$25 million could be earned with improved cash management practices.

The OIG worked extensively with the Employment Standards Administration (ESA) and the Office of Workers' Compensation Programs (OWCP) to correct longstanding and complex problems identified in past OIG audit and investigative activities. Progress was made in developing a legislative reform proposal for the Federal Employees' Compensation Act (FECA), drafting a number of critical regulations, involving FECA employing agencies more directly in program administration and cost reduction, and improving control systems for assessing and paying claims.

Several computer matching projects were also begun. One concerned the matching of FECA periodic rolls with State wage report files to see that claimants report all wages to OWCP as required. OIG also worked with the Office of Personnel Management (OPM) to verify an OIG crossmatch of FECA and OPM recipient records to find individuals concurrently receiving FECA disability or death benefits and OPM retirement or survivor annuities. By the end of the fiscal year, this match had resulted in recovery procedures for about \$6.8 million, a figure representing a combined total of overpayments from both OPM and OWCP.

As a result of financial and compliance audit work, \$170 million in questioned costs and costs recommended for disallowance were identified in 614 reports issued on the Department's programs, grants, and contracts. Departmental commitment to audit resolution continued: \$88 million, out of \$182 million in audit exceptions, was disallowed in the 728 reports resolved. By the end of the fiscal year, 25 reports over 6 months old were precluded from resolution, pending conclusion of investigations or settlement of other unique problems.

Fraud investigations resulted in the convictions of 174 individuals. Fraud indictments totaled 265; 705 fraud investigations were begun and 621 closed.

The OIG's organized crime and racketeering investigations won 39 convictions and the indictments of 71 individuals. Several special agents from OIG's Office of Organized Crime and

Racketeering were invited to testify before congressional committees holding hearings on organized crime. The catalyst for these invitations was a 2-day hearing in February by the Senate Committee on Labor and Human Resources to examine whether the Office of Organized Crime and Racketeering had adequate powers and protection to do the job it was mandated to do.

The OIG complaint center, which handles complaints of fraud, waste, or abuse in the Department's programs on a nationwide basis, received 834 complaints that warranted audit, investigative, or program agency attention and 63 that were referred to non-DOL agencies. Of the 834 complaints, the majority pertained to programs administered by the Employment and Training Administration and the Employment Standards Administration. ETA complaints consisted mainly of abuses of the CETA program and unemployment compensation fraud. ESA complaints usually involved either benefit program fraud or mishandling of claims by OWCP offices.

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Employees' Compensation Appeals Board

The Employees' Compensation Appeals Board (ECAB) carried out its decisionmaking activities by closing 1,814 cases during the year. The Board has authority to make final decisions on appeals arising under the Federal Employees' Compensation Act involving work-connected injuries and diseases.

The Board began the 1983 fiscal year with 521 cases pending. During the year 2,161 new appeals were docketed and 1,814 were closed, leaving 868 pending cases at the end of the year. Of the pending cases, only 219 were in posture for Board decision. The balance were awaiting action by the parties, such as the filing of a pleading by the Office of Workers' Compensation Programs to justify its determination or a reply by appellant or his representative to an Office pleading.

The average time lapse between the docketing of an appeal and its disposition by the Board was 3.7 months in fiscal year 1983.

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Benefits Review Board

Fiscal year 1983 marked a record year for the Benefits Review Board. Dispositions were issued for 1,319 cases, of which 1,070 were Black Lung and 249 Longshore cases. This is the highest level of production ever attained by the Board, surpassing by 19 percent the previous record of 1,105 dispositions issued in fiscal 1981 and by 30 percent the fiscal 1982 level of production.

In June, the U.S. Supreme Court resolved a longstanding dispute regarding the right of the Secretary of Labor to replace Board members. Two new temporary Board members were appointed at the end of June. Despite the difficulties presented by a change of Board members, production peaked during the fourth quarter. Board output during the last 2 months of the fiscal year, with new Board members in full production, averaged 44 percent above the level established during the first 8 months of the fiscal year.

During the year the Board received 3,057 new appeals; of these, 2,363 were Black Lung cases and 694 were Longshore. This represents a 20 percent increase over the previous record level established in fiscal 1982. The Board ended the year with 6,046 appeals pending. This constitutes a sizable workload for a three-member Board even with enhanced production. Legislation to increase the number of Board members, and thus the Board's decision-rendering capability, was proposed during the year but not passed.

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Information Activities

The Department of Labor's public information activities in the 1983 fiscal year reflected the Administration's efforts to rebuild the economy and provide a more efficient and effective government.

The economic recovery that resulted created a strong demand in the media for information and assistance. Department statistics on employment and unemployment, real earnings, industrial productivity, producer and consumer prices, and unemployment insurance claims received growing national attention.

To help the media and the public interpret these figures, top Department officials answered inquiries, gave interviews, and issued statements. Executive Staff members and others traced economic developments in speeches and interviews with the news media.

One of the most important Department initiatives of the year, the Job Training Partnership Act (JTPA), received major attention from the media and the public. The details of the new jobs program, which differed substantially from past programs, were explained in public information materials. Because JTPA's success depended on cooperation of the public and local government, business and labor officials, the Department spent much of the year increasing public understanding of the new program. Employment and Training Administration personnel were especially active in this effort. Key officials appeared on radio and television, and authored op-ed pieces and columns, granted interviews and gave speeches in support of JTPA.

Near the end of the fiscal year, preparations were made for President Reagan's visit to the Labor Department to publicize full implementation of JTPA. In addition, a major exhibit explaining JTPA was prepared for use throughout the country.

Another highlight of the year was the recovery of \$6.5 million from the trustees of the Teamster's Central States pension and health and welfare funds under a negotiated settlement—the largest total settlement ever obtained under the Employee Retirement Income Security Act. This settlement was widely reported and served as an example of the Department's commitment to protect workers' benefits.

The Department's other legislative, regulatory and policy developments also attracted substantial attention. The national media reported extension of unemployment benefits for the long-term unemployed, while local media focused on more confined instances of employment-related assistance, such as certification

of workers for assistance under the Trade Act of 1974 and the availability of funds under the Emergency Jobs Act.

Reform of Department programs continued to be a top priority. Department officials sought public understanding and support for these changes through bylined newspaper and magazine articles, media interviews, speeches, news conferences and speaking engagements. Officials stressed that efforts to reduce paperwork would relieve burdens on businesses while still providing protection of worker rights and benefits.

The concept of cooperation rather than confrontation was especially emphasized in the Occupational Safety and Health Administration. In articles and speeches, OSHA officials promoted the idea of helping businesses provide healthful and safe work environments.

Throughout the year, key officials participated in briefings and news conferences, issued statements on policy and economic developments, and spoke to labor, business and civic organizations around the country.

The public was also kept informed through articles, op-ed pieces, and letters to the editor to clarify points in news articles or editorials.

The Department's efforts to increase awareness of its programs and services included issuing a variety of news and feature articles. There was a heightened emphasis on human interest aspects of Department activities. Feature articles were distributed on such diverse subjects as the effect of robotics, services available to veterans, the work of Bureau of Labor Statistics data collectors, and the need for additional day care opportunities.

To ensure that all segments of society were informed of Department programs, specially targeted news materials were mailed to media serving blacks, Hispanics, women, labor union members, small-town residents, and business. The Office of Consumer Affairs answered large numbers of inquiries and provided written material about Department agencies and programs.

Agencies throughout the Department publicized their programs and services by distributing publications which explained how programs worked and how to utilize them. Among important new publications were a resource guide to cooperative labor-management programs and *Women at Work: A Chartbook*, describing the dramatic rise in the numbers of women in the American workforce.

Regional office information activities were highlighted by efforts to publicize state or local aspects of Department programs.

Internally, the Department's publication control system entered its second year. The system continued to save money by review-

ing all publishing costs, and suggesting the most efficient and effective ways to issue material.

Another major internal move involved the consolidation of audiovisual production facilities. By the end of the fiscal year, plans were underway to move the Employment and Training Administration's audiovisual studio equipment to the Frances Perkins Building.

Regional information officers assisted Department officials' visits by alerting the media, arranging interviews, and suggesting appropriate forums for addressing communities. They also issued national and local releases concerning Department programs, and helped place articles by Department officials with the area media.

Because of the wide-ranging responsibilities of the Department of Labor, effective communication in fiscal year 1983 more than ever required maintaining an open line to the American people.

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Appendix Tables

Appropriations and Other Obligational Authority

Number of Employees on Labor Department Rolls As of October 1, 1983

Characteristics of Participants in Comprehensive Employment and Training Act Program, Title II BC

Selected Employment Service Activities, by Region and State, Through Third Quarter, Fiscal Year 1983

Benefit Data Under State Unemployment Insurance Programs, U.S. Totals, 1972-82, and by State for 12 Months Ending December 31, 1982

Appropriations and Other Obligational Authority

	Fiscal year 1983
Federal Funds:	Amounts
Employment and Training Administration, Program Administration	92,217,000
Employment and Training Assistance	4,006,702,000
Community Service for Older Americans	319,450,000
Federal Unemployment Benefits and Allowances	230,000,000
Grants to States for Unemployment Insurance and Employment Services	22,200,000
Advances to the Unemployment Trust Fund and Other Funds	11,059,000,000
Total, Employment and Training Administration	15,729,569,000
Labor Management Services Administration	55,012,000
Employment Standards Administration	173,162,000
Special Benefits	339,600,000
Occupational Safety and Health Administration	206,649,000
Mine Safety and Health Administration	152,435,000
Bureau of Labor Statistics	121,743,000
Departmental Management	94,264,000
Office of the Inspector General	38,133,000
Special Foreign Currency	67,000
Proprietary Receipts	-11,000,000
Total, Federal funds	16,899,634,000
Trust funds:	
Unemployment Trust Fund (ETA)	32,800,000,000
Black Lung Disability Trust Fund (ESA)	855,608,000
Special Workers' Compensation (ESA)	39,000,000
Gifts and Requests (ETA)	100,000
Total, Trust funds	33,694,708,000
Interfunds Transactions	-12,491,091,000
Total, Department of Labor budget	38,103,251,000
Other funding:	
Funds appropriated to other agencies for programs administered by the Department of Labor:	
Department of Health and Human Services (Work Incentive Program)	270,760,000
Other Federal agencies (Federal Employees Compensation Act)	762,000,000
Total, Other funds	1,032,760,000
Grant Total, All funds	39,136,011,000

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Number of Employees on Labor Department Rolls As of October 1, 1983

	Full-time			Other		
	Total	D.C.	Field	Total	D.C.	Field
All agencies	18,314	6,483	11,831	1,024	350	674
ETA	2,183	936	1,247	83	58	25
LMSA	1,022	464	558	49	36	13
ESA	4,010	828	3,182	246	49	197
OSHA	2,347	447	1,900	46	22	24
MSHA	3,119	263	2,856	51	15	36
BLS	1,898	1,383	515	371	37	334
OSEC	418	151	267	13	10	3
SOL	731	421	310	49	39	10
ILAB	100	95	5	8	8	---
OASAM	1,058	601	457	53	31	22
OIG	514	100	414	13	4	9
Other	473	353	120	24	23	1
PBGC	441	441	---	18	18	---

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Characteristics of Participants in Comprehensive Employment and Training Act Program, Title II BC **Fiscal Year 1983**

(Figures for 9 months through June 30, 1983)

Characteristics	Percent distribution
U.S. total:	
Number	810,854
Percent	100.0
Male	50.4
Female	49.6
Age:	
14-15	2.8
16-19	28.1
20-21	12.9
22-24	50.2
45-54	4.1
55 and over	1.9
Education:	
School dropout	25.9
Student (H.S. or less)	16.7
H.S. grad., no post H.S.	41.3
Post H.S. attendee	16.1
On public assistance	27.5
Economically disadvantaged	98.2
Family status:	
Single parent	18.1
Parent in two-parent family	17.7
Other family member	30.6
Nondependent individual	33.6
Ethnic group:	
White (not Hispanic)	51.9
Black (not Hispanic)	31.1
Hispanic	12.4
American Indian or Alaskan Native	1.5
Asian or Pacific Islander	3.2
Limited English-speaking ability	4.6
Migrant or seasonal farmworker	0.7

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Characteristics of Participants in Comprehensive Employment and Training Act Program, Title II BC **Fiscal Year 1983**

(Figures for 9 months through June 30,¹ 1983)

Characteristics	Percent distribution
U.S. total:	
Number	810,834
Percent	100.0
Veteran:	
Total	8.7
Vietnam-era (age 34 or under)	3.1
Special disabled	0.3
Handicapped	8.8
Offender	9.3
Displaced homemaker	4.0
Labor force status:	
In-school	18.5
Underemployed	3.8
Unemployed	78.7
Other	17.5
Unemployment compensation claimant	9.7
TJTC eligible ²	7.5

¹Preliminary third quarter data as of 9/19/83.

²Targeted Jobs Tax Credit.

Selected Employment Service Activities, By Region and State, Through Third Quarter, Fiscal Year 1983

Region and State	New applications ¹	Total counseling interviews	Test administered	Placements	
				In nonagricultural industries	In agricultural industries
TOTAL ¹	8,920,537	693,730	607,037	3,082,495	202,154
Region I (Boston)	(373,430)	(32,113)	(10,160)	(106,289)	(2,093)
Connecticut	89,182	10,740	4,466	16,345	531
Maine	38,166	672	420	11,639	236
Massachusetts	156,599	9,975	2,318	50,258	578
New Hampshire	31,410	2,005	442	7,865	126
Rhode Island	33,364	6,328	2,007	11,706	176
Vermont	24,709	2,393	507	8,476	446
Region II (New York)	(624,903)	(96,572)	(60,381)	(612,169)	(3,348)
New Jersey	140,309	22,236	3,759	93,373	439
New York	484,594	74,336	56,622	518,796	2,909
Puerto Rico					
Virgin Islands					
Region III (Philadelphia)	(952,034)	(37,766)	(38,801)	(165,809)	(2,389)
Delaware	15,871	1,272	877	3,243	91
Dist. of Columbia	42,868	5,934	4,057	9,673	36
Maryland	78,785	6,116	6,459	18,161	356
Pennsylvania	627,404	18,451	16,043	94,951	627
Virginia	132,419	894	8,822	27,296	1,116
West Virginia	54,687	5,099	2,543	12,485	163
Region IV (Atlanta)	(1,598,429)	(200,941)	(222,140)	(600,261)	(60,514)
Alabama	743,324	13,447	28,116	51,531	561
Florida	364,679	29,850	19,277	117,315	8,936
Georgia	198,587	42,965	13,023	109,605	8,983
Kentucky	143,800	27,578	17,871	45,687	1,256
Mississippi	169,748	22,038	18,705	56,089	592
North Carolina	268,446	35,453	73,240	85,819	26,622
South Carolina	149,887	15,446	34,846	77,935	12,236
Tennessee	159,958	14,164	17,062	56,280	1,328
Region V (Chicago)	(1,773,253)	(100,095)	(61,208)	(256,962)	(10,921)
Illinois	374,571	22,553	7,353	63,488	1,231
Indiana	273,901	8,427	9,412	36,734	534
Michigan	308,090	27,912	8,814	41,004	2,736
Minnesota	175,402	12,972	12,769	46,548	3,318
Ohio	448,573	15,081	14,387	39,972	1,437
Wisconsin	192,716	13,150	8,473	29,216	1,665
Region VI (Dallas)	(1,336,352)	(71,902)	(91,734)	(471,427)	(47,773)
Arkansas	128,479	4,817	5,410	52,476	1,325
Louisiana	178,775	4,462	11,661	57,802	348
New Mexico	82,755	4,721	1,933	23,440	1,564
Oklahoma	188,385	12,819	24,426	73,946	8,838
Texas	757,958	45,083	48,304	263,763	35,698
Region VII (Kansas City)	(546,979)	(39,486)	(53,642)	(184,330)	(6,024)
Iowa	141,702	6,929	10,832	60,199	1,767
Kansas	80,701	7,534	5,083	35,237	1,251
Missouri	267,375	19,711	30,840	63,645	1,048
Nebraska	57,801	5,312	6,887	25,249	1,958

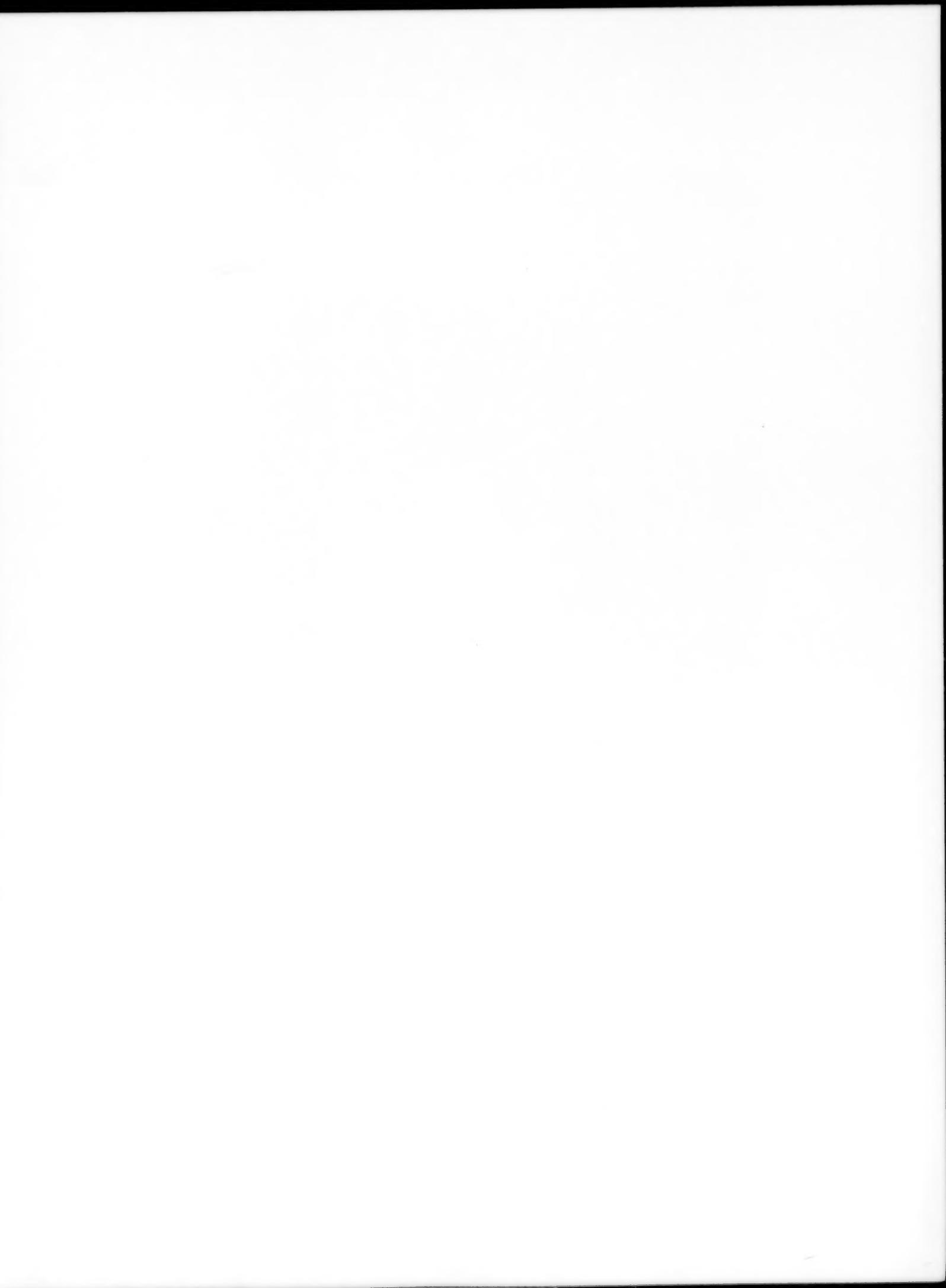
Region VIII (Denver)	(329,118)	(54,275)	(42,405)	(179,663)	(9,035)
Colorado	96,260	9,270	4,328	36,925	2,087
Montana	55,601	9,599	7,195	34,632	1,921
North Dakota	32,590	4,459	7,692	22,453	964
South Dakota	33,949	5,853	6,564	24,745	976
Utah	73,708	14,574	11,730	44,796	2,430
Wyoming	37,010	10,520	4,896	16,112	652
Region IX (San Francisco) ..	(1,021,191)	(42,468)	(14,163)	(395,515)	(35,409)
Arizona	131,412	6,068	1,354	34,621	6,284
California	794,800	30,585	8,470	334,495	27,900
Guam					
Hawaii	43,074	1,349	1,049	9,214	591
Nevada	51,905	4,466	3,290	17,185	634
Region X (Seattle)	(364,848)	(18,112)	(12,403)	(110,070)	(24,648)
Alaska	34,903	1,746	4,747	22,369	140
Idaho	55,737	3,474	2,634	20,421	2,676
Oregon	118,153	562	894	30,306	7,475
Washington	156,055	12,330	4,128	36,974	14,357

¹Excluding Puerto Rico, the Virgin Islands, and Guam.

**Benefit Data Under State Unemployment Insurance Programs,
U.S. Totals, 1972-82, and by State for 12 Months Ending
December 31, 1982**

Fiscal Year and State	Initial claims	Average weekly insured unemployed		Total number of beneficiaries	Average weekly beneficiaries	Average weekly wage in covered employment	Average weekly benefit amount		Federal Funds: (in weeks) all beneficiaries		Claimant exhaustion benefits		
		Number	Percent of covered employment				Percent average weekly (total) wages	Potential	Actual	Actual for exhaustees	Number	Percent for all beneficiaries	
1972.....	13,554,363	1,846,600	3.0	5,713,209	1,565,307	155.36	56.00	36.0	23.1	14.2	21.5	1,811,376	29.9
1973.....	12,802,503	1,626,517	2.5	5,328,998	1,369,669	163.71	59.00	36.0	23.3	13.3	21.5	1,495,092	27.7
1974.....	18,878,544	2,255,978	3.4	7,729,590	1,877,482	176.27	64.00	36.3	23.4	12.6	21.6	1,926,133	30.9
1975.....	24,842,967	3,980,376	6.1	1,160,042	3,371,246	190.28	70.00	36.7	23.2	51.1	21.6	4,195,023	37.8
1976.....	20,045,264	2,985,169	4.4	8,560,107	2,450,476	203.88	75.00	36.7	23.0	14.8	21.7	3,262,282	37.7
1977.....	19,468,357	2,660,249	3.7	7,985,105	2,177,778	217.63	78.00	35.8	23.1	14.1	21.3	2,776,387	32.5
1978.....	17,996,703	2,354,213	2.8	7,568,310	1,941,359	232.90	83.00	35.6	23.9	13.3	22.1	2,030,423	26.6
1979.....	20,148,026	2,424,511	2.8	8,075,674	2,040,619	252.82	89.00	35.2	23.7	13.1	22.0	2,037,095	26.7
1980.....	25,369,934	3,355,745	3.9	9,992,123	2,864,462	276.89	98.00	35.3	23.7	14.9	22.3	3,071,943	33.1
1981.....	23,941,633	3,044,860	3.5	9,393,364	2,614,159	301.89	106.00	35.1	23.5	14.4	22.3	2,989,177	32.4
1982.....	30,291,774	4,058,644	4.7	1,648,448	3,565,142	321.95	119.00	36.9	23.4	12.4	22.1	4,174,709	38.5
Alabama.....	631,506	67,264	5.5	239,884	57,793	281.62	80.00	28.4	23.6	12.5	21.7	70,951	30.3
Alaska.....	74,580	11,087	6.2	39,720	11,359	538.27	130.00	24.1	20.4	14.8	19.5	15,932	41.8
Arizona.....	246,893	40,182	4.1	107,506	32,279	302.57	100.00	33.0	24.9	15.6	22.8	37,035	40.9
Arkansas.....	335,638	39,482	5.7	120,896	31,010	259.85	96.00	36.9	23.5	13.3	22.1	35,705	30.7
California.....	3,572,604	516,711	5.3	1,326,992	461,767	343.34	99.00	28.8	24.1	18.0	23.3	528,339	45.7
Colorado.....	231,479	36,734	2.9	114,863	27,166	341.71	140.00	40.9	22.3	12.2	20.4	46,947	50.3
Connecticut.....	385,816	47,526	3.4	174,608	44,401	346.24	122.00	35.2	26.0	13.2	26.0	34,074	20.8
Delaware.....	77,832	8,874	3.5	31,686	8,752	351.26	98.00	27.8	25.9	14.3	25.8	6,921	19.6
Dist. of Colum.....	44,116	14,350	3.9	30,994	13,625	375.77	141.00	37.5	29.0	22.8	28.0	15,702	47.9
Florida.....	556,972	90,270	2.5	277,294	70,444	279.69	95.00	33.9	20.7	13.2	18.9	104,500	43.8
Georgia.....	839,519	70,338	3.4	318,280	65,928	292.51	96.00	32.8	20.4	10.7	18.8	101,202	31.3
Hawaii.....	92,880	13,410	3.6	41,392	11,729	272.99	129.00	47.2	26.0	14.7	26.0	12,201	29.3
Idaho.....	145,543	21,306	7.3	58,937	17,370	281.71	116.00	41.1	19.8	15.3	18.3	28,418	50.4
Illinois.....	1,391,134	244,870	5.7	613,544	221,950	345.57	146.00	42.2	26.0	18.8	25.7	288,974	49.1
Indiana.....	775,648	94,899	5.0	307,305	82,000	322.26	94.00	29.1	21.8	13.8	19.8	122,771	42.0

Iowa	315,257	45,780	4.6	151,520	42,667	287.38	137.00	47.6	22.8	14.6	21.5	58,240	38.7
Kansas	219,019	35,619	4.1	113,728	33,217	298.02	128.00	42.9	23.0	15.1	21.4	42,774	43.2
Kentucky	506,700	64,463	6.0	192,431	58,695	300.53	116.00	38.5	24.5	15.8	22.0	72,131	37.9
Louisiana	422,392	69,713	4.5	203,967	67,343	337.51	144.00	42.6	24.8	17.1	23.9	78,141	49.5
Maine	172,856	18,478	4.7	51,097	15,092	257.93	101.00	39.1	15.9	15.3	14.2	27,592	48.6
Maryland	413,188	66,023	4.3	177,484	55,623	314.56	116.00	36.8	26.0	16.2	26.0	61,186	34.2
Massachusetts	705,299	99,374	3.9	285,051	89,268	312.33	115.00	36.8	27.0	16.2	25.6	87,465	31.2
Michigan	1,784,526	230,586	7.6	603,996	201,146	378.17	154.00	40.7	23.6	17.3	22.2	249,637	40.1
Minnesota	379,860	67,668	4.2	194,261	61,829	314.47	137.00	43.5	23.4	16.5	21.3	81,530	46.6
Mississippi	353,176	44,504	6.0	130,435	34,676	259.14	79.00	30.4	23.7	13.8	22.5	39,846	32.4
Missouri	677,530	78,803	4.4	237,824	62,679	309.18	93.00	30.0	21.8	13.7	20.0	88,653	38.2
Montana	83,409	13,085	5.3	40,788	10,860	279.32	122.00	43.6	20.6	13.8	19.1	17,235	43.2
Nebraska	102,864	16,135	2.8	53,947	13,900	271.27	96.00	35.3	22.5	13.3	18.0	19,404	38.0
Nevada	119,802	18,539	4.8	58,538	17,284	308.43	115.00	37.2	23.1	15.3	22.7	20,757	39.5
New Hampshire	95,920	10,748	2.8	53,992	9,663	281.35	95.00	33.7	26.0	9.3	26.0	4,557	9.0
New Jersey	827,021	138,837	4.7	417,986	133,892	345.33	120.00	34.7	23.2	16.6	21.8	199,159	45.9
New Mexico	92,385	16,130	3.8	41,805	13,260	288.26	105.00	36.4	25.8	16.4	25.3	14,574	40.4
New York	1,708,270	267,617	3.8	634,294	239,630	362.88	98.00	27.0	26.0	19.6	26.0	230,249	37.8
North Carolina	1,708,853	106,922	4.7	431,599	90,887	263.48	104.00	39.4	23.7	10.9	21.9	88,692	21.5
North Dakota	59,350	8,008	3.6	27,539	7,216	283.31	127.00	44.8	21.2	13.6	18.7	9,532	40.9
Ohio	1,641,069	237,854	6.1	616,139	210,575	335.97	143.00	42.5	25.6	17.7	25.3	256,466	43.4
Oklahoma	241,376	33,479	2.9	120,498	25,872	325.17	137.00	42.1	18.2	11.1	15.1	42,908	57.7
Oregon	468,626	67,082	7.4	170,731	58,733	306.70	117.00	38.1	25.4	17.8	25.3	70,118	39.0
Pennsylvania	2,154,475	292,285	6.8	764,904	271,739	315.57	146.00	46.2	29.6	18.4	29.6	209,945	30.2
Puerto Rico	375,350	59,040	9.1	52,685	30,234	188.05	65.00	34.5	20.0	29.8	20.0	22,727	32.2
Rhode Island	181,841	22,832	6.1	68,730	20,337	270.18	107.00	39.6	27.7	15.3	21.1	24,571	37.1
South Carolina	884,816	62,308	5.7	227,118	51,439	262.34	93.00	35.4	24.2	11.7	22.9	61,348	29.9
South Dakota	39,459	4,863	2.3	15,028	3,614	238.82	109.00	45.6	24.8	12.5	23.8	2,717	19.6
Tennessee	859,155	82,000	5.1	262,214	76,482	279.18	87.00	31.1	23.7	15.1	21.7	84,944	33.1
Texas	904,347	122,250	2.0	421,905	100,173	338.58	126.00	37.2	21.7	12.3	19.8	110,032	44.2
Utah	132,997	22,952	4.6	65,425	19,546	301.81	129.00	42.7	22.2	15.5	21.7	24,349	42.8
Vermont	70,095	9,663	5.1	29,901	8,592	264.86	107.00	40.3	26.0	14.9	26.0	6,815	24.0
Virginia	577,177	49,493	2.6	209,952	44,207	287.01	108.00	37.6	20.9	10.9	19.4	56,591	27.4
Virgin Islands	7,885	1,671	4.7	4,148	1,621	433.60	87.00	20.0	20.1	20.3	20.1	1,939	42.6
Washington	613,801	100,130	6.8	250,001	87,490	337.38	130.00	38.5	26.9	18.1	25.5	90,944	37.4
West Virginia	180,417	41,699	7.3	122,607	37,261	331.32	129.00	38.9	28.0	15.8	27.7	34,667	35.1
Wisconsin	761,525	107,220	5.9	311,125	93,286	315.72	136.00	43.0	28.3	15.5	22.2	123,204	39.7
Wyoming	47,526	7,482	3.7	29,154	7,513	352.58	136.00	38.5	13.2	13.4	9.1	9,398	47.8



END

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